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THE CANADIAN RECIPROCITY TREATY OF 1854

BY

CHARLES C. TANSILL

EXCHANGE
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A DISSERTATION

Submitted to the Board of University Studies of The Johns Hopkins University in conformity with the Requirements for the Degree of Doctor of Philosophy

1918

BALTIMORE

1922

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CALIFORNIA

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PREFACE

The present study is the development of a paper presented in the American Historical Seminary, Johns Hopkins University, in the spring of 1918, and it will constitute one of the chapters in the author's forthcoming Life of William Learned Marcy. It was at the suggestion of Dr. John H. Latané that the present writer undertook to write a comprehensive biography of William L. Marcy, one of America's great secretaries of state, and one whose influence upon American foreign policy has not been fully appreciated.

The public archives in Canada and in the United States have been carefully examined, and it is the author's belief that this monograph on the Canadian Reciprocity Treaty of 1854 is the first serious attempt to present this important subject from a close study of the original sources.

The author is particularly indebted to Dr. John H. Latané, under whose inspiration this monograph was started, and to whose suggestive criticism it owes any merits that it possesses, and to Professor Charles S. Sperry and Mrs. Edith Marcy Sperry, of Boulder, Colorado, who were kind enough to give me access to the Marcy manuscripts. I wish also to express my indebtedness to Dr. John M. Vincent, Hon. Arthur G. Doughty, Dr. Adam Shortt, Dr. John C. Fitzpatrick, Hon. William A. Ashbrook, and to my wife, Helen C. Tansill.

CHARLES C. TANSILL

UNIV. OF CALIFORNIA

THE CANADIAN RECIPROCITY TREATY OF 1854

CHAPTER I

The Repeal of the English Corn Laws and Canadian Business Depression

The Reciprocity Treaty concluded between the United States and British North America was the result of some eight years' continuous agitation on the part of the Government of Canada. To the colonial officials it appeared as the means of escaping impending economic ruin, and from the moment of the repeal of the Corn Laws in 1846, they made systematic efforts to induce the Government of the United States to enter into some sort of reciprocal arrangement whereby the raw materials of each country would be admitted within the boundaries of the other free of duty. The economic organization of Canada at this time made the question of a reciprocal arrangement with the United States doubly important.

In 1817, the construction of the Erie Canal was begun, and this seemed to fire the imaginations of Canadian entrepreneurs with regard to the possibilities of Canadian inland waterways. Work was immediately started on several projects, and within a few years a series of short canals along the St. Lawrence River was open to navigation. The Lachine Canal admitted shipping as early as 1825; the Welland Canal in 1833; the Cornwall Canal in 1843; the Beauharnois Canal in 1845; and the Williamsburg Canals in 1847.[1]

[1] Thomas C. Keefer, Eighty Years' Progress of British North America (Toronto, 1863), pp. 166–174; M. J. Patton, Canada and Its Provinces (Toronto, 1914), vol. x, pp. 512–514.

These canals, it was believed, would enable the St. Lawrence River to be the great channel for the forwarding to Europe of the products of the interior of the continent, and this confidence of the Canadians as to the superiority of their route over that of the Erie Canal became quite widespread. According to the author of a pamphlet published at St. Catherines in 1832: "We possess in Canada an undoubted and preëminent superiority in controlling and directing the productive industry of the Western territories. . . . The master key of the Lake region is not theirs."[2]

By the year 1846, the short canals along the St. Lawrence River were mostly completed, and the prospect of diverting a large portion of the Erie Canal trade seemed particularly bright. In 1845, the quantity of produce brought by the St. Lawrence to the city of Montreal was given as follows: "Pork, 6,109 barrels; beef, 723 barrels; lard, 460 kegs; flour, 590,305 barrels; wheat, 450,209 bushels; other grain, 40,787 bushels." The produce brought to New York by the Erie Canal was estimated at: "Pork, 63,640 barrels; beef, 7,699 barrels; lard, 3,064,800 pounds; flour, 2,517,250 barrels; wheat, 1,620,033 bushels; corn, 35,803 bushels."[3] The enormously greater volume of trade carried by the Erie Canal was a subject of active interest to the Canadians, who now believed that the superiority of their route was about to become manifest.

In this connection the Free Trade Association of Montreal published a circular which confidently predicted the ultimate diversion of the greater portion of the Erie Canal traffic to the Montreal route. This was inevitable "because the cheapest conveyance to the sea-board and to the manufacturing districts of New England must win the Prize. . . . The cheapening of the means of transit is the great object to be obtained; and our best practical authorities are of opin-

[2] Quoted in D. A. MacGibbon, Railway Rates and the Canadian Railway Commission (N. Y., 1917), p. 5.

[3] R. H. Bonnycastle, Canada and the Canadians in 1846 (London, 1846), pp. 289–290.

ion that the St. Lawrence will be made the cheapest route as soon as our chain of inland improvements is rendered complete. . . . This picture may appear too flattering to those who have not investigated the subject; but to such we say, examination will convince them that with the St. Lawrence as a highway, and Portland as an outlet to the sea, we shall be enabled, successfully, to struggle for the mighty trade of the West, and bid defiance to competition on the more artificial route of the Erie Canal."[4]

The authors of this interesting circular, however, did not keep in mind the influence of two important factors with regard to the eventual superiority of the St. Lawrence route. The New York route was free from the difficulties and dangers of navigation that were encountered in the St. Lawrence and in the Gulf, and thus had the advantage of lower transatlantic freight and insurance rates.[5] Also, the rapidly increasing volume of trade along the St. Lawrence route was due in no small measure to the adventitious aid derived from the British Navigation Laws. The repeal of colonial preference duties would deal a severe blow to Canadian export trade, and particularly to that export trade that had sprung up since the Parliamentary regulation of 1843, which admitted all wheat cleared from Canadian ports, whether grown in Canada or in the United States, at a fixed duty of one shilling a quarter.[6]

This practice of colonial preference duties dates as far back as the "Old Subsidy" of 1660, which fixed such low duties on certain imported colonial products as to give them a virtual monopoly of the English market.[7] The preference given to these so-called "enumerated articles" was from

[4] Ibid., pp. 290–292.

[5] C. Donlevy, The St. Lawrence as a Great Commercial Highway, p. 23; MacGibbon, p. 19.

[6] Bernard Holland, The Fall of Protection (London, 1913), pp. 120–122.

[7] G. L. Beer, Origins of the British Colonial System (N. Y., 1908), chap. iv; Old Colonial System (N. Y., 1912), vol. i, pp. 128–138.

time to time extended to other colonial commodities, so that by 1840 there were more than eighty articles of commerce thus protected.[8] In the Peel tariff of 1842, the principle of colonial preference was even further extended. The tariff schedule of that year contained some 825 items, and upon no less than 375 of them differential duties were levied in favor of colonial products.[9]

In 1844, however, there was a distinct relaxation of the preferential system. By the customs act of that year the duties on foreign wool were repealed and the preference hitherto allowed colonial coffee was greatly reduced.[10] But it was not until 1846 that the preferential system received the severe shock that foretold its destruction. By the act of 1828, a duty of one shilling per quarter was imposed on imports of foreign cereals when the price stood at 73 shillings or above, and this duty rose as the price of grain fell, thus reaching 34s. 8d. when the price sank to 52s.

Colonial grain, however, was given a special preference under the act of 1828, a duty of 5s. per quarter being imposed when the price fell below 67s., and only the purely nominal charge of 6d. per quarter when the price rose above 67s. Thus when the price of grain in England stood at 57s., Canadian grain could freely enter at but 5s., while American or foreign grain was really excluded by the excessive duty of 34s. 8d.[11]

Peel's corn law of 1842 revised the import duties on imported grain so that thereafter colonial wheat was admitted at uniform duties of 1s. when prices stood at, or above, 58s., and 5s. when prices fell below 55s. On foreign grain the duties were revised downwards. When the price of grain

[8] R. L. Schuyler, "British Imperial Preference," in Political Science Quarterly, Sept. 1917, p. 432.

[9] Holland, pp. 104–105; Hansard, third series, vol. 63, pp. 513, 541, 542, 549; 5 and 6 Victoria, c. 47.

[10] 7 and 8 Victoria, c. 16; Hansard, third series, vol. 74, pp. 1271, 1273, 1274, 1279, 1280.

[11] 9 Geo. IV, c. 60; Holland, pp. 18–19; J. S. Nicholson, History of the English Corn Laws, pp. 135–136.

varied from 73s. to 51s., then a sliding scale of duties, ranging from 1s. to 19s., should apply; when the price fell below 51s., the duty remained constant at 20s.[12]

In the following year, 1843, an additional preference was granted to Canadian wheat and flour. Ever since 1831, wheat grown in the United States had been permitted to enter Canada free of duty,[13] and this practice had led to the importation of considerable quantities of American wheat, which was then ground into flour and shipped to England to be admitted at the colonial preferential duty.

Under the terms of the law of 1843, the Canadian Parliament agreed to pass a measure whereby a duty of 3s. a quarter would be levied on all American grain crossing their frontier. The British Government then promised that all grain cleared from Canadian ports, whether native grown or imported from the United States, would be admitted at a fixed duty of 1s. instead of at the existing rate which, according to English prices, varied from 1s. to 5s.[14]

The main purpose of this act of 1843 was further to encourage the milling interests of Canada, and to favor the elaborate canal system that was rapidly nearing completion. In both these particulars the measure was a pronounced success. Even before the passage of the Act of 1843, the traffic upon the St. Lawrence was doubling every four years,[15] and, according to a competent authority, "there is no question that the waterway system of Canada at this time procured a remarkable degree of prosperity to a large and important element in commercial life of the country."[16] The milling interest received a similar favorable impetus. From October 10, 1843, to January 5, 1846, 1,492,260 hundred-weight of wheat flour manufactured in Canada was imported into the United Kingdom, and this figure is espe-

[12] 5 Victoria, c. 14, April 29, 1842; Schuyler, pp. 441–442; Adam Shortt, Canada and Its Provinces, vol. v, pp. 190–193.
[13] Holland, pp. 118–119; Shortt, vol. v, pp. 195–197.
[14] Holland, pp. 120–121; Hansard, third series, vol. 67, pp. 1319–1320; Nicholson, pp. 136–137.
[15] J. Sheridan Hogan, Canada, p. 24.
[16] MacGibbon, p. 13.

cially significant when we consider that the imports of flour from foreign countries and from other British colonies during the period April 29, 1842, to January 5, 1846, amounted only to 1,362,517 hundred-weight.[17]

But these benefits were of short duration. In the autumn of 1845 it became only too evident that the destruction of the potato crop in Ireland meant impending famine. Peel, a deeply religious man, interpreted the Irish misfortune to be an expression of divine displeasure against the Corn Laws, and this fact, added to his growing conviction in favor of their repeal, meant the overthrow of the whole protective system.[18] On January 27, 1846, Peel began his notable fight for the repeal of the Corn Laws, and on June 26th of that year a bill embodying his proposal became law.[19] Colonial grain was to receive a preference until February, 1849, after which date all importations of oats, barley, and wheat, wherever grown, were to pay only a nominal duty of 1s. per quarter.[20]

But this was not all. On the same day a tariff act which materially reduced the preferential duties on colonial timber received the royal assent. Since the period of the Napoleonic Wars the preferential duties in favor of colonial timber had been high. In 1813, foreign timber paid a duty of 65s. per load (50 cubic feet), but in 1821, this impost was lowered to 55s., while colonial timber paid a mere 10s. per load.[21] Under the tariff of 1842, the duty on foreign timber was reduced to 25s., and at the same time the duty on colonial timber was practically abolished—a small charge of 1s. per load being exacted.[22]

This differential duty of 24s. in favor of colonial timber was lowered to one of 14s. by the tariff of 1846, and in the

[17] Parliamentary Papers, sess. 1846, vol. 44, No. 130, p. 9.

[18] Holland, pp. 243–246; Nicholson (N. Y., 1904), pp. 131–135; W. Cunningham, The Rise and Decline of the Free Trade Movement (N. Y., 1912), pp. 60–66.

[19] 9 and 10 Victoria, c. 22; Chas. S. Parker, Sir Robert Peel (London, 1899), pp. 583–609; George M. Trevelyan, Life of John Bright (N. Y., 1913), chaps. iv, v, vi.

[20] Holland, pp. 256–258; Shortt, vol. v, pp. 214–215.

[21] Schuyler, p. 448.

[22] 5 and 6 Victoria, c. 47, table a, class V.

House of Commons it was frankly predicted that such a radical reduction of colonial preference would mean the destruction of the Canadian timber trade and the annexation of that province to the United States. Mr. Hinde "believed that if this measure were carried . . . we might safely make a present of Canada to the United States at once," and this belief was widely shared both in England and in Canada.[23]

In Canada, the abolition of colonial preference created "consternation and alarm."[24] On January 28, 1846, on the day after Peel began his struggle for the repeal of the Corn Laws, the Earl of Cathcart, Governor-General of Canada, wrote a strong letter to Gladstone, then Secretary of State for the Colonies. The successful operation of the newly completed canal system, he observed, depended upon the continuance of colonial preference. The American route via the Erie Canal was shorter and not closed by ice for such a long period. Some preference in favor of grain shipped by way of the St. Lawrence was therefore necessary, lest the Canadian canals prove a failure, and the debt incurred in their construction be repudiated.[25]

Gladstone, in his reply of March 3, 1846, deprecated the possible injury that would be inflicted upon Canadian trade by the repeal of colonial preference, but he emphasized the fact that cheap food was a prime necessity for the people of the United Kingdom, and for this reason a gradual reduction of the preferential duties was imperative. There would still be a duty of 15s. a load upon foreign timber, and Gladstone assured the Governor-General that not only would the reduction of the preference on timber fail to check Canadian exports, but he was "sanguine that the trade nevertheless will extend itself." He also believed that the corn and flour trade between Canada and the United Kingdom would not

[23] Hansard, third series, vol. 84, pp. 1290–1291, 1342.
[24] Ibid., p. 1321; Edward Porritt, Sixty Years of Protection in Canada, 1846–1907 (London, 1908), pp. 45–47.
[25] Canadian Archives, Series G, Governors-General Letter Books, 406.

suffer any serious depression because of American competition, and he hoped that there might be a reduction in the cost of forwarding grain from the interior to the St. Lawrence ports.[26]

With the Canadian canals already pushed to the limit in a spirited competition with the superior American route, it took the sanguine temperament of the colonial secretary to conceive that they could lower transportation charges with a decreasing volume of trade. Besides, Mr. Gladstone seemed unaware of the fact that with regard to the grain trade it was not America but Europe that Canada had to fear.

In February, 1846, the full details of Peel's program for the repeal of the Corn Laws became known in Canada. The lumbermen, merchants, millers, and shipping men were particularly affected by the new measures, and, inasmuch as they dominated the boards of trade in the important ports of the colony, it was but natural that these bodies should send prompt protests to the colonial secretary against the relaxation of the colonial system.[27] On February 25, 1846, the Board of Trade of Quebec drew up its memorial of protest, and one month later the Board of Trade of Montreal took similar action. At Toronto the members of the Board were especially interested in the fate of the canal system after the repeal of colonial preference, and Mr. George S. Workman, President of the Board of Trade, prophesied that "now that the differential duty in our favor in the mother country is about to be removed we shall find that the trade in Western States' produce will leave our waters altogether." Indeed, in view of the fact that millions had been spent in the construction of the canal system and that the decreasing volume of trade would bring ever smaller transportation tolls, it was no more than plain justice for the mother country to make to Canada "a present of the public works."[28]

[26] Ibid., 123.
[27] Porritt, pp. 54–57.
[28] Hansard, third series, vol. 86, pp. 555–556.

CHAPTER II

Beginnings of the Reciprocity Movement

On May 12, 1846, the Canadian House of Assembly agreed to an address to the Queen in which Her Majesty was requested to begin negotiations for reciprocal arrangements between Canada and the United States, and the movement which ended in the Reciprocity Treaty of 1854 was started.[1]

On June 3, 1846, Gladstone replied to Cathcart's despatch of May 13th, which had enclosed the "Address of the Canadian Parliament," and after indicating to the Governor-General that the case of Australia showed clearly that colonial prosperity did not depend upon a protective system, he remarked that the question of a reciprocity treaty between Canada and the United States had been carefully considered, and that "Her Majesty will readily cause directions to be given to her minister at Washington to avail himself of the earliest suitable opportunity to press the important subject on the notice of the Government."[2]

This promise of the British Government was strictly adhered to, and on June 18, 1846, Lord Aberdeen sent instructions to Mr. Pakenham, at Washington, to "bring this matter under the consideration of the United States Government whenever you may consider the time favorable for pressing on their attention a subject of such deep interest and importance both to Canada and to the United States."[3]

These instructions to Pakenham reached Washington on July 8, 1846, five days after the passage of the Walker tariff bill by the House of Representatives.[4] This measure was

[1] Canadian Archives, Series G, 125.
[2] Ibid., 125.
[3] Gladstone to Cathcart, June 27, 1846, Canadian Archives, Series G, 125, No. 94.
[4] Edward Stanwood, American Tariff Controversies in the 19th Century (Boston, 1904). pp. 77–81.

then sent to the Senate where a protracted and acrimonious debate ensued. Pakenham was well aware of the strong opposition of the Whigs to the Walker tariff bill, and he therefore believed that the moment was not propitious for the proposal of a reciprocity arrangement between Canada and the United States. If such a measure were introduced he was afraid that it might "awaken enough hostility" to defeat the pending tariff bill. If the bill was passed by both Houses of Congress then there was some hope for a reciprocity convention, but if the bill should be rejected it would "be evident that no proposition which I might have made in pursuance of your Lordship's late instructions . . . would have had a chance of succeeding before Congress."[5]

The Walker Tariff Bill passed the Senate on July 28th, with a single amendment which was promptly concurred in by the House and on July 30, 1846, the President signed the act. This gave Pakenham some hope that a reciprocity treaty between Canada and the United States might be negotiated; so, in the autumn of that year, he journeyed to Canada to ascertain the sentiment there and to procure a list "of the particular articles which by the respective Tariffs were subjected to a higher rate of duty on importation into the United States from Canada than on importation into Canada from the United States." This list was prepared by the Canadian Inspector-General of Public Accounts, and finally reached Pakenham at Washington on December 20, 1846.

Pakenham lost no time in presenting Mr. Robert Walker, then Secretary of the Treasury, with a copy of this list together with a memorandum expressing the desire of Her Majesty's Government to effect a reciprocity agreement between British North America and the United States. Copies of this memorandum were also placed in the hands of Senator Dix of New York, who was known to be favorable to

[5] Grey to Cathcart, enclosing Pakenham's letter of July 13, 1846, to the Colonial Secretary, Canadian Archives, Series G, 125, No. 14.

some measure of this nature. Walker himself professed to be in favor of reciprocity with Canada, but "such was the press of business during the late short session, occasioned principally by the war with Mexico," that nothing was done.[6]

As soon as Congress convened in December, 1847, the British minister again pressed the matter upon the attention of Mr. Walker, the Secretary of the Treasury. His arguments in favor of reciprocity were soon fortified by the representations of Mr. Hamilton Merritt, one of the most influential men in the Niagara District, and an authority with regard to the trade relations between Canada and the United States. Lord Elgin, the new Governor-General of Canada, had been quick to realize the abilities of Mr. Merritt, and in the early part of 1848 Merritt was sent to the United States to convince or persuade both houses of Congress to agree to a reciprocity convention. Immediately upon the arrival of Mr. Merritt in Washington, Mr. Crampton, the British minister, introduced him to Buchanan, Mr. Walker, and the "leading members of Congress whose support in carrying through the measure we judged to be most important."

Mr. Merritt also appeared before the Committee of Commerce of both houses of Congress, and, according to Mr. Crampton, he succeeded in relieving these wary legislators of any "apprehensions" they may have had relative to the ill effects that a treaty of reciprocity might have upon American markets.[7] Mr. Joseph Grinnell, chairman of the Committee on Commerce of the House of Representatives, drew up a bill providing for the free admission into the United States and Canada of articles that were grown or produced in the respective countries.

On April 28, 1848, Mr. Grinnell enclosed a copy of this proposed bill in a letter to Robert J. Walker, Secretary of the Treasury, and the Secretary's advice upon this whole question of reciprocity was requested. Mr. Walker's reply of

[6] Grey to Elgin, June 22, 1847, Canadian Archives, Series G, 128, Instructions No. 91.

[7] Grey to Elgin, June 9, 1848, Canadian Archives, Series G, 131.

May 1, 1848, was highly favorable. He believed that "very great advantages would accrue to the United States" under such an arrangement, and he predicted a great diversion of Canadian trade to American channels. "Indeed," he observes, "under such a system as this as the products of Canada might increase from time to time, nearly the whole surplus exported abroad would be carried upon our rivers, railroads, and canals . . . increasing our tonnage and invigorating nearly every branch of American industry."[8]

Three days later, May 4, 1848, Mr. Grinnell, from the House Committee on Commerce, reported his bill for the admission into the United States free of duty of certain specified articles of the "growth or production of Canada, upon the condition that the like articles of the growth or production of the United States are admitted into Canada free of duty."[9] After an extended consideration of some two months the House, on July 12th, passed the bill without a recorded vote.[10] On July 20, 1848, Mr. Dix, from the Senate Committee on Commerce, reported the Grinnell bill with certain verbal amendments, and asked for its immediate consideration. Upon the motion of Mr. Davis of Massachusetts, however, the bill was laid upon the table and no further notice was given to the bill during that session.

On July 5, 1848, Lord Grey, the colonial secretary, wrote to the Committee of the Privy Council for Trade, and requested advice as to whether the Committee would permit the Canadian Parliament to regulate the colonial tariff, so as to meet the reductions in the pending reciprocity bill in the House of Representatives. The Committee promptly replied that inasmuch as the "questions involved in it bear more upon the welfare of Canada than of Great Britain, they recommend it to be left entirely to the decision of the Provincial Legislature."[11]

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[8] 31st Cong., 1st sess., H. Ex. Doc. No. 64, pp. 12–13.
[9] Cong. Globe, 30th Cong., 1st sess., May 4, 1848, p. 723.
[10] Ibid., p. 923.
[11] Grey to Elgin, Aug. 10, 1848, Canadian Archives, Series G, 132. No. 303.

But the Grinnell bill had really a very slender chance of passing through both houses of Congress. On December 18, 1848, shortly after the opening of the second session of the 30th Congress, Senator Dix, of New York, gave notice that on the following day he would ask that the Senate immediately consider the pending bill providing for reciprocity with Canada.[12] But the Senate was in no hurry to discuss the merits of the Grinnell bill, so, on the following day, the motion of Mr. Dix was tabled,[13] and it was not until January 8, 1849, that the measure was debated in the Senate. On this occasion, Mr. Dix made a strong appeal for closer trade relations with Canada. "The bill," he explained, "provides for freedom of intercourse and exchange between the United States and Canada, in relation to certain enumerated articles which are the growth or production of either of the two countries. . . . The countries themselves are not essentially different in climate or soil at the points of contact, but as we return from the frontier the advantage in both respects is on our side. The provisions of the bill, therefore, are not likely to violate the policy of this Government in regard to our intercourse with foreign countries generally, while the marked difference in the social relations between the two countries, which will necessarily result from making the terms of exchange equal as this bill proposes, must be advantageous to both."[14]

Mr. Dix was immediately answered by Mr. Pearce of Maryland, who declared that the admission of free wheat into the United States from Canada would usher in a period of general free trade in that article to the great detriment of American agriculture. Many of our treaties with foreign countries contained a "most favored nation" clause, and this would mean that any concessions extended to Canada, in this regard, would have to be extended to all the nations

[12] Cong. Globe, 30th Cong., 2d sess., p. 46.
[13] Ibid., p. 62.
[14] Ibid., p. 182.

signatory to treaties containing this clause.[15] Other objections raised against the bill were that it would confuse the revenue system of the United States; that there was no provision for reciprocity in manufactures; and that the bill would mainly benefit the Northern transportation agencies.[16]

On January 23, 1849, Senator Dix made his last effort in favor of the bill. He endeavored to quiet the fears of the agricultural interests by stressing the fact that for some years past there had been a heavy balance of trade against British North America. "Our entire imports from the British North American colonies in 1845," he observed, "were of the value of about two millions of dollars. Of this amount, more than nine hundred thousand dollars consisted of gold and silver, and more than eleven hundred thousand, including specie, were free of duty. The remaining nine hundred thousand dollars are to be divided between Canada, Nova Scotia, and New Brunswick; and from the nature of the articles, it is manifest that the quantity received from Canada was but a small portion of the amount. . . . The year 1847 gives nearly the same aggregate result.

"Notwithstanding this small import from the British North American colonies, our commercial intercourse with them, . . . is as beneficial for its extent as that with any portion of the world. We sent into them, in 1847, products of the value of nearly eight millions. . . . Our imports directly from those colonies, the same year, were of the value of about two millions and a quarter."[17]

But Mr. Dix's arguments failed to convince a majority of the Senate, so, for a second time, the bill failed to pass the upper house of Congress. In the meantime, the Canadian Government had not been idle. Late in the session of 1846 a bill was introduced in the British House of Commons to empower the Queen to give her assent to acts of the colonial legislatures reducing or repealing protective duties

[15] Ibid., p. 183.
[16] Ibid., pp. 184–186.
[17] Ibid., pp. 327–332.

imposed upon imports from foreign countries.[18] This important measure was hurriedly pushed through Parliament in August, 1846, in spite of the dire predictions of some of the members that the political connection between the Mother country and the colonies would not long "survive commercial independence."[19] "The whole power," which this act conferred upon colonial legislatures, "was to repeal duties already existing,"[20] and of this privilege, the Canadian Parliament promptly availed itself by the act of July 28, 1847, when the duties on American manufactures were lowered from 12½ per cent to 7½ per cent, and the duty on British manufactures raised from 5½ per cent to 7½ per cent.[21]

This was merely the first step towards reciprocity with the United States, and the Canadian Government anxiously awaited the fate of the Grinnell bill in the Congress of the United States. On December 21, 1848, two days after Senator Dix had called the bill up in the Senate, Lord Grey wrote an interesting despatch to Lord Elgin with reference to the reciprocal arrangements between Canada and the United States, and he carefully stated the attitude of the mother country. "Her Majesty's Government," he observes, "are prepared fully to approve and ratify a measure with this general object, should your Legislature consider it desirable. However, there should not be differential duties in favor of the United States." As the Canadian tariff then stood, there was a duty on iron ore imported from England. In the event of a reciprocity arrangement with the United States under the terms of which American iron ore would be admitted free of duty, then a similar concession would have to be extended to English ore. He further advised that, in order to prevent protests from other countries, Canada should word the law removing the restrictions on imports so "as to make it clear that, on its taking

[18] Hansard, third series, vol. 87, p. 1320; vol. 88, pp. 746–747.
[19] Ibid., vol. 88, pp. 743–744.
[20] Ibid., vol. 88, p. 683.
[21] 10 and 11 Victoria, c. 31.

effect, all the articles to which it relates will be admitted duty free from all countries whether the produce of the United States or not." [22]

The failure of the Grinnell bill to pass the Senate was a source of deep disappointment both to the British and to the Canadian Governments. On March 5, 1849, Crampton wrote to Palmerston and reported the failure of the reciprocity bill in Congress. He explained the unfavorable attitude evinced by the Senate towards the question of reciprocal arrangements with Canada by asserting that the members from the South always viewed every measure in which the North was interested with evident hostility. The defeat of the Grinnell bill he therefore ascribed to a cabal of Southern senators whose opposition was based "solely on the ground of its being one in which the Northern States of the Union were generally anxious to concur." [23]

Some weeks later, March 22, 1849, Crampton wrote a long letter to John M. Clayton, the American Secretary of State, in which he recounted the history of the attempts made by the Canadian Government to interest the United States in the subject of reciprocity. The many advantages that would accrue to the United States under a system of free exchange of raw products were carefully rehearsed, and the wish was expressed that the question would again receive the "most serious consideration of the United States Government." [24]

The Canadian Government, despite the rebuffs of the United States Congress, was still hopeful of effecting some sort of a working agreement with the United States. With this idea in mind, the Canadian Provincial Parliament passed an act, April 25, 1849, which provided for the free admission into Canada of certain raw products of the United

[22] Canadian Archives, Series G, 132, No. 303.
[23] Grey to Elgin, March 31, 1849, Canadian Archives, Series G, 133, No. 354.
[24] 31st Cong., 1st sess., H. Ex. Doc. No. 64, p. 3.

States, whenever similar articles, the produce of Canada, should be admitted into the United States free of duty.[25]

On June 25, 1849, Mr. Crampton addressed another note to Mr. Clayton on the subject of reciprocity with Canada, in which he enclosed a memorandum of William Hamilton Merritt, who had been sent down by Lord Elgin to facilitate the passage of the reciprocity bill through Congress. According to Mr. Merritt, a reciprocity arrangement between Canada and the United States would be mutually advantageous, and "would insure to farmers on both sides of the boundary all the natural advantages both routes possess, and, at all times, and for everything they grow, the highest prices, whether in Europe or America."[26] But Canada, he remarked, was fast growing weary of her role of rejected suppliant. She had made several advances in the direction of reciprocity, but these had not been met by the United States, and now the Canadian Government was about to request Great Britain to extend a preference to Canadian grain imported into the United Kingdom unless the United States was willing to enter into a reciprocal arrangement with her northern neighbor.

In Mr. Crampton's note of March 22, 1849, there was contained a suggestion that the question of reciprocity might be settled by the negotiation of a reciprocity treaty between Great Britain and the United States. This mode of procedure might succeed where the plan of Congressional action had apparently failed. Mr. Clayton in acknowledging Mr. Crampton's note of June 25th, and the enclosed memorandum of Mr. Merritt, took occasion to discuss these two methods of securing reciprocity.

The method of proceeding by way of a treaty was not favorably regarded by either the President or by Mr. Clayton. To both of them it appeared that "a tariff made by a treaty, requiring only the consent of the President and Senate,

[25] 12 Victoria, c. 3, Provincial Statutes of Canada.
[26] 31st Cong., 1st sess., H. Ex. Doc. No. 64, p. 8.

would be liable to objections arising out of the provisions of the federal constitution, which no American statesman could safely disregard." The President therefore had "no hesitation in deciding that any attempt to carry it out by his intervention through the medium of a treaty, would be utterly impracticable."[27] This meant that the only way that commercial reciprocity between the two countries could be arranged was through legislative action, and inasmuch as the reciprocity bill had twice failed to pass the Senate there was scant hope that such an arrangement could be put in operation for some years.

In the meantime, conditions in Canada were fast growing desperate, the ever-increasing unrest being caused by both political and economic factors. From 1842 to 1845, Lord Metcalfe had served as Governor-General of Canada, and, due to his personal influence, a Conservative or Tory ministry was in control of the provincial parliament. But the restoration of the Whig party to power in England meant the overthrow of the Tory party in the colonies, and, in 1847, Lord Elgin came to Canada as the new Governor-General.[28] In the following year, at the provincial elections, the Tory party suffered a crushing defeat, and a strong Coalition ministry under the joint leadership of Lafontaine and Baldwin was formed.[29]

The result of the provincial elections was a sore blow to the Tory party which had long regarded itself as the only loyal party in Canada, and the loss of political patronage made their chagrin all the keener. A plausible explanation for their defeat seemed necessary, and when it appeared that the Coalition government had won every French Canadian seat, the Tories had no difficulty in deciding that the direful result had been effected through French machinations.[30] It

[27] Ibid., p. 33.
[28] Theodore Walrond, Letters and Journals of James, Eighth Earl of Elgin (London, 1872), pp. 31–33.
[29] C. D. Allin and George M. Jones, Annexation, Preferential Trade and Reciprocity (London, 1912), pp. 4–5.
[30] Ibid., pp. 5–6.

was but natural, therefore, that the relations between the two parties should become increasingly bitter; and when the Coalition ministry introduced the famous "Rebellion Losses Bill" which provided compensation to those whose property had been illegally destroyed in the Rebellion of 1837, the resentment of the Tory party knew no bounds.[31] In Montreal this hatred of the Coalition ministry reached a focal point, several of the newspapers openly preaching disloyalty and civil war.[32] Other Tory organs advocated annexation to the United States "rather than be trodden upon by French licentiousness."

A considerable part of this agitation had for its purpose the defeat of the "Rebellion Losses Bill," and when it was accepted by the provincial parliament in April, 1849, the Tories were beside themselves with rage. On the afternoon of April 25, 1849, Lord Elgin drove to the House of Parliament to give the royal assent to the bill, and after he had completed the accustomed formality he prepared to return to his country seat at Monklands. But no sooner did he leave the Parliament House than he was beset by a howling mob that pelted him with rotten eggs and stones. He managed to reach Monklands without serious injury, but the mob in Montreal exacted vicarious satisfaction by burning the Parliament House to the ground, and wrecking the residence of M. Lafontaine, the leader of the Coalition Government. Five days later, April 30th, when Lord Elgin drove from Monklands to Government House in Montreal, he was again greeted with a shower of missiles, one large stone striking him full on the chest.[33]

But the Tories did not represent the only disaffected elements in Canada. The repeal of colonial preference had

[31] George M. Wrong, The Earl of Elgin (London, 1905), pp. 40–44.

[32] Allin and Jones, pp. 5–6.

[33] Walrond, pp. 70–86; Wrong, pp. 45–51; Sir John George Bourinot, Lord Elgin (Toronto, 1903), pp. 72–75; Montreal Pilot, April 26, 27.

threatened the whole economic structure of Canada, and business of all kinds was at a standstill. In 1848 Lord Elgin wrote to the Colonial Secretary that "property in most of the Canadian towns, and more especially in the capital, has fallen fifty per cent in value within the last three years. Three-fourths of the commercial men are bankrupt, owing to free-trade." [34] In the following year conditions were no better, and on June 15, 1849, Elgin wrote to Grey that some arrangement with the United States was vitally necessary, and that he viewed with apprehension the "effect which is likely to be produced in Canada by a continued refusal on the part of the United States to accede to the terms of reciprocity which have been proposed unless Great Britain shall adopt some arrangement whereby the Canadian farmer may be compensated for the loss to which he is subject by the tax levied on his produce when imported for consumption into the United States." [35] Elgin then remarked that a general business depression still existed and that unless something was soon done to ameliorate conditions he greatly feared that "ere long a combination of a very serious character will be formed against the truest interest of England." [36]

Elgin's despatch of July 2, 1849, shows deep concern over the failure of the reciprocity bill in the United States Senate, and he expresses the hope that Her Majesty's Government will try to negotiate a reciprocity arrangement "at the earliest practicable period." The discontent in Canada necessitates some commercial arrangement with the United States, and it is his "firm conviction" that such an arrangement would "go farther to promote the prosperity of the Colony and to produce political contentment than any boon which it is in Great Britain's power to grant." [37]

The repeal of the colonial preference on grain and flour had proved disastrous to the milling and transportation in-

[34] Walrond, p. 70.
[35] Elgin to Grey, Canadian Archives, Series G, No. 69.
[36] Canadian Archives, Series G, No. 69.
[37] Ibid., No. 88.

terests of Canada, and this despite Mr. Gladstone's confident predictions to the contrary. Lord Grey, in his review of the "Colonial Policy of Lord John Russell's Administration," trenchantly observes that either the Act of 1843, under which the milling interests received such considerable encouragement, or the repealing act of 1846 was "grievously wrong," and that the action of the Government in this matter "brought upon the Province a frightful amount of loss to individuals, and a great derangement of the Colonial finances." [38]

This arraignment of the policy of the British Government with regard to the repeal of the colonial preference on grain and flour is clearly substantiated by the figures given in the Parliamentary papers dealing with colonial exports. The imports of wheat into the United Kingdom from the British Possessions out of Europe (mainly Canada) for the years 1840–1847 are given as follows, in quarters: 8,195; 68,859; 38,981; 22,137; 40,275; 51,539; 88,814. The imports from foreign countries during the same period were: 1,985,188; 2,340,895; 2,678,473; 917,983; 1,058,802; 820,-171; 1,343,777. On June 26, 1846, the acts reducing the colonial preference on grain went into effect, and a decrease in colonial importations was soon noticeable. The imports of colonial grain, in quarters, for the years 1847–1849 were as follows: 100,780; 32,560; and 25,401. The imports of foreign grain for these same years were: 2,555,673; 2,548,-398; 3,819,977.[39]

The sharp decline in the imports of colonial grain into the United Kingdom and the large increase of importations of foreign grain after 1846 are significant, and conclusively show how great was the repressing effect of the repeal of colonial preference. When we consider the figures with reference to the flour trade the extent of the damage to the colonial export trade is even more apparent. From 1840 to

[38] Grey (London, 1853), p. 221.
[39] Parliamentary Papers, 1905, vol. 72, Cd. 2394, p. 135.

1843, the importations of colonial flour as measured in hundred-weights are as follows: 490,987; 665,562; 561,966. The importations of foreign flour for the same period were: 1,046,851; 597,564; 567,886. In 1843, Parliament passed an act admitting colonial wheat into the United Kingdom at a fixed duty payable upon the quantity of wheat used in its manufacture. American wheat ground into flour in Canadian mills was accounted a manufactured product of Canada, and was admitted at the same rate that was levied upon flour ground from colonial wheat. This concession naturally proved a great boon to the milling interests of Canada, and the exports of flour to the United Kingdom quickly increased in volume. For the years 1843 to 1846 the imports of flour from the British Possessions out of Europe (mainly Canada) into the United Kingdom were as follows: (cwt.) 336,587; 679,486; 675,408; 804,790. The imports of foreign flour during the same period were: 100,290; 301,159; 270,456; 2,285,639.[40]

In 1846, Parliament provided for a reduction of the colonial preference on flour, and after February 1, 1849, even this preference was to be abandoned.[41] The result of this legislation is reflected in the imports of colonial flour from 1847–1849. The actual imports were (cwt.): 1,094,141; 564,421; 466,217. The impetus given to the foreign import trade during these years is shown as follows: 5,234,917; 1,190,028; 2,883,622.[42] It is evident from these figures that the grain and flour trade of Canada really suffered "grievous injury" by the repeal of colonial preference, and the zeal of the Canadian Government in pushing reciprocity with the United States can be well understood.

As a result of Lord Elgin's numerous despatches setting forth the desperate state of affairs in Canada, the British Government finally bestirred itself, and in the autumn of

[40] Ibid., pp. 134–135.
[41] 9 and 10 Victoria, c. 23.
[42] Parliamentary Papers, 1905, vol. 72, Cd. 2394, pp. 134–135.

1849, Sir Henry Lytton Bulwer was sent to Washington to negotiate a reciprocity treaty with the United States. In the meantime, Crampton, the British minister at Washington, had been informed by Mr. Clayton, the American Secretary of State, that the United States would not consider any reciprocity arrangement which did not include all the British North American Provinces, and also "unless the Cod Fisheries in the waters of the British North American Colonies were thrown open to the Fishermen of the United States." In the instructions given to Sir Henry Bulwer, the British Government stressed the need of some sort of a reciprocity convention between Canada and the United States, which it described as "of the very highest importance both commercially and politically." In view of this fact Her Majesty's Government was willing to concede Mr. Clayton's request that the fishermen of the United States be permitted to fish in the waters of the British North American Colonies, and land upon the "coasts of those Colonies for the purpose of drying their nets and curing their Fish, providing that in doing so they do not interfere with the Owners of private property, or with the operations of British Fishermen." Her Majesty's Government was also willing that, with the exception of Newfoundland, all the British North American colonies be included within the operation of any such convention.[48]

In return for these concessions the British Government desired that all "fish, either fresh or cured, imported into the United States from the British North American Possessions in vessels of any Nation or Description, should be admitted into the United States duty free, and upon terms in all respects of equality with Fish imported by Citizens of the United States." The British Government would also expressly reserve all fishing rights in the estuaries and in the mouths of rivers in which the salmon fishing was conducted.

On the other hand, the British Government would be willing to concede the free navigation of the St. Lawrence

[48] Canadian Archives, Series G, 135.

River and of certain of the St. Lawrence canals, and, furthermore, would forego its right under the 2d article of the Treaty of June 15, 1846, to navigate the Columbia River.[44]

Sir Henry Lytton Bulwer arrived in Washington in January, 1850, and on the 22nd of that month he addressed a long letter to Mr. Clayton on the subject of reciprocity. He remarked that it was his understanding that at one time Mr. Clayton was "rather disposed in favor of a general treaty of reciprocity between the United States and our North American Colonies on the basis of a free interchange of the natural products of the United States and our North American possessions." His Government had therefore given him authority to treat with Mr. Clayton if he should find him "of opinion that a negotiation of this kind was likely to have a prompt and successful termination." If, however, "the negotiation for such a treaty would simply mean a long discussion without doing anything," he thought it would be "better to leave the Canada bill unencumbered."[45]

On January 29, 1850, a bill was reported to the House of Representatives, from the Committee on Commerce, "to admit certain articles of the growth and production of Canada into the United States free of duty, upon the condition that the like articles of the growth or production of the United States be admitted into Canada free of duty." This bill was then recommitted to the Committee on Commerce, with a "view to provide therein for the free navigation of the river St. Lawrence, and to assimilate the same to the bill now pending before the Senate." The Committee, however, was not disposed "to introduce into the bill any condition whatever in regard to the free navigation of the river if it can be secured by the treaty-power of the Government, and they are led to believe that it is in your power to obtain a full and satisfactory assurance to this effect at this time." On March 15, 1850, Robert M. McLane, Chairman of the

[44] Ibid.
[45] John M. Clayton Papers, MS., Library of Congress, vol. viii.

House Committee on Commerce, wrote to Mr. Clayton, and after recounting the history of the pending reciprocity bill he inquired whether it would be possible for the Secretary of State to "communicate to the Committee assurances . . . that the free navigation of the St. Lawrence would be tendered to the citizens of the United States upon terms satisfactory to the Government of the United States upon the passage of the bill in question."[46]

Upon the receipt of this letter from the Chairman of the House Committee on Commerce, Clayton, on March 26, 1850, wrote to Sir Henry Lytton Bulwer and requested an official note on the subject of Mr. McLane's inquiry. On the following day, Sir Henry replied to Mr. Clayton's note, and with regard to the navigation of the St. Lawrence he informed the Secretary of State that he felt "no hesitation . . . in stating that the instructions with which I came to the United States warrant me . . . in assuring you that, should a bill corresponding to that which has received the sanction of the legislature in Canada be passed by the legislature of the United States and receive the sanction of the President, Her Majesty's Government will be ready to respond to any application which the United States Government may address to it on the subject . . . by at once consenting to open the navigation of the St. Lawrence and of the canals thereto adjoining . . . to the shipping and citizens of the United States."[47]

On April 4, 1850, Grey wrote to Elgin and enclosed correspondence from Sir Henry Bulwer relative to the Senate bill on reciprocity, which included a clause providing for the free navigation of the St. Lawrence River. Immediately after receiving Sir Henry Bulwer's despatch regarding the Senate bill, Grey instructed the Foreign Office that the free navigation of the St. Lawrence should "in a pinch" be conceded to American citizens, but if possible this permission

[46] 31st Cong., 1st sess., H. Ex. Doc. No. 64, pp. 34–35.
[47] Ibid., p. 36.

should be withheld.[48] One of the enclosed letters was a communication of March 2, 1850, from Sir Henry Bulwer, in which he observed it was well known in the United States that England would concede the free navigation of the St. Lawrence before she would jeopardize the passage of the reciprocity bills pending in Congress.[49] It was Sir Henry Bulwer's opinion that the free navigation of the St. Lawrence would have to be granted and that it should be made the subject of a special convention and thus leave the reciprocity bills unencumbered with any such provision. However, in a letter of April 16, 1850, to Lord Palmerston he confides that Stephen A. Douglas, who had charge of the Senate bill, was very loath to omit the clause relating to the St. Lawrence, and Bulwer suggests that Douglas's obstinacy was caused by his desire to obtain for himself "the credit for the measure."[50]

On May 7, 1850, President Taylor transmitted to the House of Representatives the correspondence between the Department of State and the British legation relative to reciprocity with Canada, and he took occasion to submit the whole question to "the consideration of Congress, and especially whether the concession proposed by Great Britain is an equivalent for the reciprocity desired by her."[51] On May 16th a bill providing for reciprocal trade with Canada was discussed in the House, and was referred to the Committee of the whole on the State of the Union.[52] The whole question of reciprocity was then allowed to slumber for some months. Several reasons accounted for this. Our relations with England were becoming decidedly strained because of the "Greytown Affair," and the summer of 1850 was largely taken up with negotiations leading to the Clay-

[48] Canadian Archives, Series G, 136, No. 481.
[49] Ibid.
[50] Bulwer to Palmerston, Canadian Archives, Series G, 136, No. 493.
[51] 31st Cong., 1st sess., H. Ex. Doc. No. 64.
[52] Cong. Globe, 31st Cong., 1st sess., pp. 1009–1010.

ton-Bulwer Treaty, which adjusted these differences. Also, the health of Sir Henry Bulwer was none too good, the Clayton papers being filled with notes from Sir Henry excusing, on account of illness, his ability to keep certain important appointments with Clayton.[53]

But most of all, there was manifest in Congress a strong hostility to any scheme of reciprocity, which was regarded by protectionists as a dangerous concession to the advocates of free trade. In the House of Representatives the question was not seriously considered after May, 1850, and in the Senate, despite the efforts of Mr. Douglas, a similar fate attended all efforts to secure action on the bill. Mr. Ewing of Ohio was particularly opposed to the bill, for in his opinion it "was fraught with the utmost mischief to all the interests of the country."[54] On September 21, 1850, Mr. Douglas, for the last time, during the first session of the thirty-first Congress, asked the Senate to "take up the bill on the subject of reciprocity," but in view of the strong opposition to the measure, he withdrew his request and the question of reciprocity was again postponed to await the decision of a later Congress.[55]

During the next session of Congress the reciprocity bill failed to make much progress. On December 10, 1850, Mr. Harris of Illinois introduced into the House a bill providing for reciprocity in trade between the United States and Canada, and for the free navigation of the canals and waters of Canada by American vessels. The bill was read a first and second time by title and then referred to the Committee on Commerce.[56] The Canadian Government now realized that it would be expedient to have resident in Washington some person of influence who could indicate to the Congressional Committees on Commerce the many advantages of reciprocity with Canada. Lord Elgin therefore selected Francis Hincks,

[53] Clayton Papers, Library of Congress, vol. 9.
[54] Cong. Globe, 31st Cong., 1st sess., p. 1908.
[55] Ibid.
[56] Ibid., 2d sess., p. 22.

Inspector-General of Canada, to undertake this important mission, and on January 6, 1851, Hincks addressed a lengthy and closely reasoned communication to R. M. McLane, Chairman of the House Committee on Commerce. Hincks pointed out how Canada had repealed the differential duties in favor of British manufacture with the result that the duties collected at the port of Toronto had risen from $30,000 in 1846, to nearly $400,000 in 1850. This increase he attributed "mainly to the American trade which has sprung up since the removal of the differential duties."[57] He also adverted to the fact that until very recently the Maritime Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland had been "among the best customers of the United States for bread stuffs." Heretofore there had been in operation in these provinces a tariff imposing duties on flour ranging from twenty-five cents to seventy-five cents per barrel, but within the past year arrangements had been effected by Canada with three of these provinces for a free interchange of their natural productions, and Mr. Hincks was convinced that a "very large trade will be diverted to those provinces from the city of New York unless the present restrictions be removed."[58] Mr. Hincks then concluded his memorial by threatening retaliation should the United States continue its dilatory policy relative to reciprocity with Canada. Canada would reenact the differential duties in favor of British manufactures, and, by closing the Canadian canals to American shipping, she would inflict a "most serious injury" upon the trade of Chicago, Cleveland, and other lake ports.

But the threats of Hincks proved unavailing. On February 28, 1851, the question of reciprocity with Canada was discussed in the House of Representatives for the last time during the second session of the thirty-first Congress, and no favorable action was taken. Mr. McLane, Chairman of the Committee on Commerce, spoke strongly in favor of a

[57] 32d Cong., 1st sess., S. Ex. Doc. No. 1, p. 85.
[58] 31st Cong., 2d sess., S. Ex. Doc. No. 1, p. 86.

commercial arrangement with Canada. He dilated upon the increase in trade between the United States and Canada since the repeal by the Canadian Government of the preferential duties in favor of English manufactures, and he introduced a bill making the duration of any reciprocity arrangement dependent upon the continuance of this equality of treatment by the Canadian Government of the manufactures of Great Britain and the United States.[59] Mr. McLane's arguments, however, were no more persuasive than those of Mr. Hincks, so the question was left unsettled.

In the Senate the subject of reciprocity received even less consideration than in the House. On January 9, 1851, Mr. Douglas asked permission to "propose the prior orders of the day for the purpose of taking up the bill providing for the free navigation of the St. Lawrence River, and for reciprocal trade with Canada." His object in making the motion was "simply that it may be made the special order for some future day." The motion of Mr. Douglas was agreed to and the reciprocity bill was made the special order of the day for Tuesday, January 21, 1851.[60] But the proceedings of that day were taken up with the consideration of amendments to the rules of the Senate, and no further notice was given to the question of reciprocity.[61]

The failure of Congress to pass a reciprocity measure was a grievous disappointment to the Canadian Government. On March 20, 1851, Sir Henry Bulwer wrote to Daniel Webster, Secretary of State under President Fillmore, and alluded "to the dissatisfaction that has been produced throughout British North America since it has been known that no bill has passed the United States Legislature replying to the friendly disposition which has long been manifested by the British provinces in North America." The Canadians, especially, believed that their application for an interchange of

[59] Cong. Globe, 31st Cong., 2d sess., p. 751.
[60] Ibid., p. 203.
[61] Ibid., pp. 293–296.

agricultural products had failed of success "because they have generously and without stipulations conceded many commercial advantages which it was in their power to bestow upon the trade of this country." Therefore, they were of the opinion that "their only mode of obtaining adequate attention is to replace themselves in the situation in which they were previous to making the aforesaid concessions."[62]

Bulwer greatly deprecated the spirit of retaliation that was fast growing stronger in Canada, and he inquired whether Webster "would be disposed to enter into a negotiation, embracing a consideration of the various commercial advantages affecting the trade and intercourse with the British North American provinces which have been and could be extended by the British Government, and by the British North American provinces themselves to the United States, and also with respect to the advantages of a like kind which could be conferred by the United States on the aforesaid provinces."[63]

On March 29, 1851, W. S. Derrick, chief clerk, Department of State, replied to Sir Henry Bulwer's note of the day previous, and informed him that by the direction of Mr. Webster the correspondence from the British Legation had been referred to the President for consideration.[64] Some five weeks later, June 7, 1851, Lord Elgin despatched a short note to Sir Henry Bulwer, in which he indicated the growing dissatisfaction in Canada with reference to the dilatory policy of the United States. Unless some spirit of compromise or conciliation should soon manifest itself, it was more than likely that measures of retaliation on the part of Canada would be promptly pressed, and these under four possible heads:

1. The closing of the Canadian canals.

2. The imposition of duties of 20 per cent on imports from the United States.

[62] 32d Cong., 1st sess., S. Ex. Doc. No. 1, pp. 83–84.
[63] Ibid., pp. 83–84.
[64] Ibid., p. 89.

3. The reenactment of differential duties to draw trade to Quebec and Montreal.

4. The appeal through the Queen to the British Parliament to reenact duties on the natural products of the United States imported into Great Britain.[65]

On June 24, 1851, Sir Henry Bulwer addressed a note to Daniel Webster in which the forebodings of Lord Elgin were duly set forth, and in an apparent effort to obviate any friction between the United States and Canada, Sir Henry again inquired whether Mr. Webster was willing to enter into negotiations relative to a treaty of commercial reciprocity between the two countries.[66]

President Fillmore, however, was not in favor of adjusting our relations with Canada by means of a treaty, so on December 2, 1851, in his annual message to Congress he then invited their attention to this question, and expressed the opinion that it seemed "in many respects preferable that the matter should be regulated by reciprocal legislation."[67] But Congress "did nothing, said nothing, thought nothing on the subject," so the question was postponed until the following year.[68]

In this year, a new element was introduced that tended completely to dissolve the indifference of Congress toward the question of reciprocity—the Northeastern fisheries. Under the terms of the treaty of 1783, citizens of the United States had the right freely to take fish on the Banks of Newfoundland, in the Gulf of St. Lawrence, and at all other places in the sea. They also enjoyed the liberty of taking fish on the British coasts generally, and could dry and cure the same in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador. Under the treaty of 1818, their right to take fish remained as under

[65] Ibid., pp. 90–91.
[66] Ibid., pp. 89–90.
[67] Richardson, Messages and Papers of the Presidents, vol. v, pp. 118–119.
[68] Wm. H. Seward, Speech, Aug. 14, 1852, Cong. Globe, 32d Cong., 1st sess., App. 1, p. 914.

the treaty of 1783, but the liberty to take and cure fish on the British coasts was seriously curtailed, and was permitted only within specified limits. Moreover, the interpretation of the wording of the treaty of 1818 soon led to serious difficulties. According to articles of the treaty, the American fishermen could no longer take, dry, or cure fish within three marine miles of the "coasts, bays, creeks, or harbors of His Britannic Majesty's Dominions in America,"[69] except within limits, and a controversy at once arose as to the exact meaning of the term "bays." The British authorities claimed that the term included all bays, whatever their extent, and American fishing vessels were seized even in such a wide body of water as the Bay of Fundy.[70]

This restriction threatened enormous injury to the American fishing industry. Cod-fishing is deep-sea fishing, and can be profitably pursued only during certain seasons. In view of this contingency it had been the practice of American fishermen in the slack seasons to enter the bays and inlets of Nova Scotia, Cape Breton, and Prince Edward Island and fish for herring and mackerel. As it happened, the schools of herring and mackerel were generally found within the three mile limit, so venturesome Yankee skippers were wont not only to sail within the bays, but also boldly to pursue their calling within the three mile limit of the British North American coasts. This, in turn, led to very grave consequences, for in time of storm "the American fishing vessels were obliged to place themselves in difficult and dangerous positions to avoid detection. In 1851, over 100 vessels were driven ashore on Prince Edward Island in a gale, and over 300 lives were lost. The fleet braved the storm rather than run for port and thus confess their infraction of the British rights.[71]

[69] United States Treaties in Force, compiled by H. L. Bryan (Washington, 1899), p. 220.

[70] J. B. Moore, Digest of International Law, vol. i, pp. 783–787.

[71] Arthur Harvey, The Reciprocity Treaty (Quebec, 1865), p. 15 n.; 32d Cong., 1st sess., S. Doc. 112, pt. 1, pp. 39–41.

In this same year, June 21, 1851, the president of the executive council of Canada and the secretary of Nova Scotia signed an agreement to cooperate in protecting the fisheries from Yankee incursions. With this end in view the two provinces agreed to provide either a steamer or two or more sailing vessels to cruise in the Gulf of St. Lawrence or along the coasts of Labrador.[72] Repeated requests were now made to the British Government to render similar assistance and finally, on May 27, 1852, Lord Pakington announced to Lord Elgin that it was the intention of Her Majesty's Government to "despatch as soon as possible a small naval force of steamers, or other vessels, to enforce the convention of 1818."[73]

On July 5, 1852, Mr. Crampton, the British minister at Washington, despatched a note to Mr. Webster advising him that Her Majesty's Government had decided to station "off New Brunswick, Nova Scotia, Prince Edward's Island, and in the Gulf of St. Lawrence such a force of small sailing vessels and steamers as shall be deemed sufficient to prevent the infraction of the treaty (of 1818)."[74] Upon the receipt of this news, President Fillmore at once ordered Commodore Perry to proceed to "the fishing grounds on the coasts of the British possessions in North America, for the purpose of protecting the rights of American fishermen under the convention of the 20th of October, 1818."[75]

The British Government, however, was desirous of avoiding any possible collisions between the armed forces of the two countries, as the instructions to Admiral Sir George Seymour clearly reveal. In enforcing the convention of 1818 the officers employed in Her Majesty's service "should be enjoined to avoid all unnecessary interference with the vessels of friendly powers, and all harshness in the performance of their duty." The concession to the United States

[72] 32d Cong., 2d sess., S. Ex. Doc. No. 22, pp. 436–437.
[73] Canadian Archives, Series G, 141, No. 32.
[74] 32d Cong., 1st sess., H. Ex. Doc. No. 120, pp. 107–108.
[75] Ibid., p. 1.

fishermen in 1845 to fish in the Bay of Fundy should be considered as still in force, and even though Americans land and dry their nets and cure fish on Magdalen Islands, yet they "should not be practically interfered with."[76]

On October 19, 1852, Pakington enclosed in his instructions to Lord Elgin an interesting report by the law officers of the crown on certain questions propounded by Vice-Admiral Seymour:

1. Do the naval officers of the Crown need a Commission from the government of the Colonies before seizing American vessels? To this the law officers answered No.
2. Can American fishermen land in the harbors of New Brunskick, Cape Breton, and Prince Edward Island on Sunday, merely for purposes of amusement? With regard to this query it was answered that the American vessels could not be seized, but might be compelled to depart.
3. Can American fishermen at Magdalen Islands who interfere with the rights of British fishermen in that vicinity be seized? The law officers advised seizure only after due warning be given the Americans to depart.
4. Can American vessels enter harbors in Nova Scotia in calm weather, and then without buying wood or water sail out again without seizure? In this case it was advised that the American vessels merely be compelled to depart.
5. If American vessels enter the three mile limit along the coasts of British North America and then flee beyond it, can British revenue cutters pursue and seize them? To this last inquiry the law officers answered in the affirmative, but with the admonition that this right of seizure be "adopted only in very clear cases and with extreme caution."[77]

From the early part of the year 1852 until the signing of the reciprocity treaty on June 5, 1854, the question of the fisheries was constantly associated with that of commercial reciprocity, and in Congress a more favorable attitude towards a convention that would settle these two embarrassing questions began to manifest itself. Mr. Hincks, the Inspector-General of Canada, was quite anxious to accelerate this friendly disposition on the part of Congress, and in a memorandum sent by Lord Elgin to Pakington on February 20, 1852, he recommended that, pending the decision of the

[76] Pakington to Elgin, Canadian Archives, August 19, 1852, Series G, 142, No. 56.
[77] Canadian Archives, G, 142, No. 75.

question of reciprocity, the navigation of the St. Lawrence River be conceded to American bottoms.[78] But, in his instructions to Lord Elgin, May 14, 1852, Pakington enclosed the decision of the Foreign Office not to permit the navigation of the St. Lawrence River by American shipping until the United States granted "some equivalent for it."[79]

Hincks, however, was not dismayed at this rebuff. In a later memorandum to Pakington he once more adverted to the advisability of opening the St. Lawrence to American shipping, and observed that it would be a measure of "great popularity in Canada." Also, it would vastly help the Canadian canals and be the means of securing "the principal part of the trade in breadstuffs, and provisions for the supply of the fisheries and timber region in the Maritime Provinces" now monopolized by the United States. In reply the Foreign Office remarked that in the previous year Hincks had been opposed to granting the navigation of the St. Lawrence to American bottoms without some substantial equivalent, and that the Foreign Office was still of that opinion.[80]

As we have already seen, in the spring of 1852 the colony of Nova Scotia made provision for the maintenance of four armed cruisers in her territorial waters with instructions to seize American vessels violating the treaty of 1818, and Canada, Newfoundland, and Prince Edward Island decided to cooperate with her in a joint defensive armament. This together with the announcement on the part of the British Government that it would station "off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing vessels and steamers as shall be deemed sufficient to prevent the infraction of the treaty," created a considerable stir of excitement in Washington.[81]

Webster immediately (July 17, 1852) wrote to Mr.

[78] Ibid., G, 141, No. 17.
[79] Ibid., G, 141, No. 23.
[80] Pakington to Elgin, June 30, 1852, Canadian Archives, G, 141, No. 40.
[81] 32d Cong., 2d sess., S. Ex. Doc. No. 22, pp. 438–439.

Crampton inviting him to repair at once to Boston to discuss the whole question of reciprocity, and expressing the hope that the seizure of American vessels would be delayed until after their conference upon the subject.[82] One week later, July 25, Mr. Webster made a speech at Marshfield, Massachusetts, relative to the fisheries, during the course of which he significantly remarked:

> The fishermen shall be protected in all their rights of property, and in all their rights of occupation. To use a Marblehead phrase, they shall be protected "hook and line, and bob and sinker." . . . This sudden interruption of the pursuits of our citizens, which have been carried on more than thirty years without interruption or molestation, can hardly be justified by any principle or consideration whatever. . . . It is not to be expected that the United States will submit their rights to be adjudicated upon in the petty tribunals of the *provinces;* or that we shall allow our vessels to be seized on by constables or other petty officers, and condemned by the municipal courts of Quebec and Newfoundland, New Brunswick, or Canada. No, no, no![83]

This question of the fisheries and the related subject of reciprocity were now lengthily debated in the Senate. News had arrived that the naval force sent by Great Britain alone amounted to 13 ships, one a 74-gun frigate, this being in addition to the four vessels provided by the British North American provinces.[84] It was apparent to Senator Hamlin that this formidable fleet was much larger than was necessary to enforce the convention of 1818: "It is said that reciprocal trade between the United States and the British colonies is thus to be enforced. If such be the object . . . I will only say, in my opinion, the wrong mode has been adopted to secure the end desired."[85]

Senator Davis, of Massachusetts, also believed that the action of Great Britain with regard to the protection of fisheries was done with an ulterior motive. "This whole matter" he was sure could be "explained as a stroke of policy. It may be a dangerous step to be taken by the British Gov-

[82] Crampton to Sir Alexander Bannerman, July 20, 1852, Canadian Archives, G, 294.
[83] 32d Cong., 2d sess., S. Ex. Doc. No. 22, pp. 444-445.
[84] Cong. Globe, 32d Cong., 1st sess., App., p. 902.
[85] Ibid.

ernment, and the colonies may be playing a game which will not advance materially the interest they have in view." However, "if Great Britain wants a war, undoubtedly she can have it." [86]

To Senator Rusk, of Texas, it seemed "that the conduct of Great Britain in this business should be met promptly, on our side. It is supposed by some Senators to be designed to bring about an enactment for reciprocity of trade on our part with the British colonies. If that be so, I will never give a vote for such a measure under such circumstances, no matter what may be the consequences. I will never yield to any threats made by the British Government, and cannon will be found to be the last available argument that could be used." [87]

Mr. Pratt, of Maryland, was not so impressed with the argument that Great Britain's policy with regard to the protection of the fisheries was merely a stroke of policy. It appeared to him that the British Government had purposely adopted an uncompromising attitude, and this might well mean war. He thought that the people of the United States "should not be lulled into security about this matter. I think there is great danger of collision with Great Britain in regard to this subject. . . . I have no doubt that the necessary steps have already been taken to provide a sufficient naval force to protect our seamen in what our Government has proclaimed to be their rights; and when the naval force of this country goes there, I do not see how a collision is to be avoided." [88]

It was evident that with the Senate in this frame of mind there was little hope of any favorable action with regard to a commercial arrangement with Canada. But Hincks, the Inspector-General, did not at once appreciate this fact, and in a memorandum enclosed in a despatch from Lord Elgin to Pakington, September 4, 1852, he still argues for commercial

[86] Ibid., p. 898.
[87] Cong. Globe, 32d Cong., 1st sess., July 23, 1852, vol. 29, p. 1893.
[88] Ibid., p. 1897.

concessions to the United States. In his opinion free commercial intercourse between Canada and the neighboring states would be mutually advantageous to the inhabitants of the two countries, and he believed that the "commercial marine of both should be permitted to navigate freely the Rivers and Canals flowing through the British and United States' territories." With this object in view, Canada had repealed all differential duties on manufactures, and had granted the vessels of the United States the free use of her canals despite the fact that the Government of the United States had not met these concessions in a like spirit. Hincks thereupon observed that when the President's late message to Congress recommending reciprocity was published it would have been good policy on the part of the British Government to open the St. Lawrence River to American shipping. "The adoption of such a liberal policy," he believed, "would have tended very much to allay the irritation which has been caused by the steps necessarily and wisely adopted for the protection of the British Fisheries." [89]

As the summer of 1852 progressed, however, and it became apparent that Congress would do nothing more than merely discuss the question of reciprocity with Canada, Hincks became quite restive, and the tone of his memoranda underwent a radical change. In a despatch from Lord Elgin to Pakington, September 23, 1852, there is a new memorandum from Hincks which clearly reveals his changed attitude. He would now have Canada adopt tariff measures favoring importations through the St. Lawrence (that is, British), and also would charge American shipping passing through only the Welland Canal the same tolls as if they passed through the entire Canadian canal system. He was opposed, however, to any thought of closing the Canadian canals to American shipping for "such a measure would be injurious to the revenue." [90]

[89] Canadian Archives, G, 407A, No. 80.
[90] Ibid., No. 86.

The growing hostility in Canada towards the United States, because of the failure of reciprocal commercial legislation to pass through Congress, threatened to render impossible any prospective legislation in this regard. Crampton, the British minister in Washington, quickly perceived this danger, and in a letter to Lord Elgin, September 14, 1852, he warns him of the inexpediency of any retaliatory measure on the part of the Canadian Government. In his opinion it would be "clearly impolitic in the Canadian Legislature to resort to these measures," for, after a recent conversation with the President of the United States it appeared certain that he was "sincerely desirous to settle all commercial questions before he leaves the administration, and that he really intends to do all that he can towards effecting the engagement we have so long desired. The 'Fishery difficulty' has at least had this good effect that a general feeling now prevails that the whole of these matters should be settled. The adoption by Canada just now of retaliatory measures would, I think, be injurious, and would favor the cry of the opponents to reciprocity here that we are trying to coerce the United States to negotiate—a notion sure to find response among the 'masses.'" [91]

Some five weeks later, October 30, 1852, Pakington, in his instructions to Lord Elgin, remarks that inasmuch as negotiations for a reciprocity treaty between the United States and Great Britain were about to begin, the colonial legislatures of the British provinces should not take any active measures on the subject of the fisheries or trade, as the proceedings of Her Majesty's Government might be embarrassed.[92]

President Fillmore, in his third annual message, December 6, 1852, adverted to the friction between the United

[91] Elgin to Pakington, Sept. 23, 1852, Canadian Archives, G, 407A, Confidential.

[92] Canadian Archives, G, 142.

States and the British North American colonies relative to the fisheries, and observed as follows:

> It was at first apprehended that an increased naval force had been ordered (by Great Britain) to the fishing grounds to carry into effect the British interpretation of the provisions in the convention of 1818 in reference to the true intent of which the two Governments differ. It was soon discovered that such was not the design of Great Britain, and satisfactory explanations of the real objects of the measure have been given both here and in London. . . . These circumstances . . . have led me to think the moment favorable for a reconsideration of the entire subject of the fisheries on the coasts of the British Provinces. . . . A willingness to meet us in some arrangement of this kind is understood to exist on the part of Great Britain with a desire on her part to include in one comprehensive settlement as well this subject as the commercial intercourse between the United States and the British Provinces. . . . If it is found practicable to come to an agreement mutually acceptable to the two parties, conventions may be concluded in the course of the present winter.[93]

Congress did not appear to be in any great hurry to consider measures looking towards reciprocity with Canada, and it was not until February 5, 1853, that Mr. Davis, of Massachusetts, introduced in the Senate a bill having that end in view.[94] According to this bill it was provided that "whenever the President of the United States shall receive satisfactory evidence that the fishermen and fishing vessels of the United States are admitted to the common rights and privileges of British subjects resident in those provinces to fish in the waters thereof and adjacent thereto, together with the right of curing and preparing for the market the proceeds of such fisheries, both upon the water and the land, then he shall issue his proclamation authorizing the fishermen and fishing vessels of said provinces to enjoy like privileges in the waters of the United States, together with the privilege of entering the ports of entry in the United States and making sale of fish and the proceeds of the fisheries upon the payment of the same duties, which are required by law of the fishing vessels and their cargoes belonging to the United States."[95]

[93] Messages and Papers of the Presidents, vol. v, pp. 163–164.
[94] Cong. Globe, 32d Cong., 2d sess., vol. 26, p. 514; see S. Bill 609.
[95] 32d Cong., 2d sess., S. Bill 609.

On February 12, 1853, this bill was reported and a strong fight at once arose as to the constitutionality of the measure. Mr. Davis anticipated but little opposition to the passage of the bill. He believed that no Senator could have "any objection to it at all" and he was desirous of having it speedily passed and sent to the House.[96] But it very soon developed that Mr. Mallory, of Florida, had very serious objections to the bill, and was prepared to dispute its passage. He had "a proper regard not only for the pecuniary interest of the vast capital embarked in our northern fisheries, but for the safety of our fishermen and the maintenance of the friendly relations which existed between us and the British North American Provinces." He wished, however, to remind the Senate that "there are other and higher considerations involved in this bill—considerations far above all pecuniary interest." To him it was apparent that the proposed bill contained the most patent "political heresy." From whence did the General Government derive the right to cede to a foreign power the property of the States in their fisheries? By what authority did the Federal Government "pretend to admit foreign vessels and crews not only within the waters and jurisdiction of a state, to take fish which belong exclusively to a state, but to legislate them on the land, and within the body of the county of a State?"[97]

Mr. Bayard, of Delaware, immediately supported Mr. Mallory in his defense of States' Rights, and proposed an amendment which had been suggested to him by Mr. Hamlin, of Maine. The substance of this amendment was that the pending bill should be so modified that the reciprocal fishing rights under discussion should not extend below the 40th parallel of north latitude.[98] But even this compromise could not influence a majority of the Senate to favor a reciprocal arrangement with Canada, so the measure failed to pass.

[96] Cong. Globe, 32d Cong., 2d sess., p. 582.
[97] Ibid., p. 953.
[98] Ibid., pp. 956–957.

In the House of Representatives the bill providing for reciprocity suffered a similar fate. On February 11, 1853, Mr. Seymour, of New York, introduced a bill providing that whenever the Government of Great Britain agreed to extend to the citizens of the United States the right to take and cure fish of every kind in the Gulf of St. Lawrence and on the coasts of Newfoundland, Nova Scotia, Cape Breton, New Brunswick, and Prince Edward Island, together with the right to navigate the St. Lawrence and St. John rivers and the Canadian system of canals, then the President of the United States should issue a proclamation admitting into the United States free of duty certain enumerated articles being of the growth, production or manufacture of the British North American provinces. At the same time the British North American provinces were to reciprocate by admitting free of duty an identical list of enumerated articles.[99]

It is significant that Mr. Seymour's bill makes no mention of extending to the citizens of the British North American provinces any fishing rights in American waters. Mr. Fuller, of Maine, at once hastened to attack the proposed bill of Mr. Seymour on the ground that it would operate particularly in favor of the "manufacturing interest, the cities, and railroads."[100] Mr. Fuller then introduced a bill which was practically identical with the bill introduced in the Senate by Mr. Davis. It simply provided that whenever the fishermen and fishing vessels of the United States were admitted to the common rights of British subjects in the British North American provinces, then the President should issue a proclamation authorizing the fishermen and fishing vessels of the said provinces to enjoy like privileges in the waters of the United States.[101] It was worthy of note that there was not one word about reciprocity in enumerated articles of production.

As a matter of fact neither of the two bills had very much

[99] Ibid., vol. 26, pp. 567–568; H. Bill 360.
[100] Cong. Globe, 32d Cong., 2d sess., p. 777.
[101] 32d Cong., 2d sess., H. Res. No. 361.

show of passing through Congress. Mr. Seymour's measure aroused the fears of the protectionists, while the bill introduced by Mr. Fuller was in direct conflict with the doctrine of States' Rights so dear to the heart of the Southern delegation. As a result, there was no serious attempt to enact any kind of reciprocity legislation during that session of Congress.[102] Thus the question was postponed until the new administration under President Pierce took office, and thereafter the whole affair passed out of the hands of Congress and was handled by the new and vigorous Secretary of State, William L. Marcy.

When Mr. Marcy entered upon his official duties on March 8, 1853, our relations with the British North American provinces were each day growing more strained, the "fisheries question" being the most disturbing factor. As already described, in the spring and summer of 1852, the British Government decided to cooperate with the colonial governments in protecting the inshore fisheries, and a delicate situation arose. On August 7, 1852, Mr. Abbott Lawrence, the American minister to the Court of St. James, had an interview with the Earl of Malmesbury relative to the violation of American rights. Malmesbury assured Lawrence that there was no special animus behind the action of the British Government in assisting the colonies to patrol their coasts, and that there was not the slightest intention "to give offence either to the Government or to the people of the United States."[103] Lawrence was certain that the British Government felt that they had "committed an error" in ordering a large naval force to colonial waters, without giving a reasonable notice to the United States, and he believed that they were "willing to do everything in their power to allay excitement."[104]

The desire to placate the Government of the United States is clearly illustrated in the instructions of Lord Mal-

[102] Cong. Globe, 32d Cong., 2d sess., vol. 26, pp. 824, 979, 1154.
[103] 33d Cong., special sess., S. Ex. Doc. No. 3, Mar 4–Apr. 11, 1853, pp. 2–3.
[104] Ibid., p. 4.

mesbury to Mr. Crampton, August 10, 1852. Mr. Crampton was instructed to assure Mr. Webster, and through him the President of the United States, "that her Majesty's Government continues to feel the same anxiety that has long been felt in this country for the maintenance of the best relations between the two governments, and it will be to them a source of sincere satisfaction if the attention which has thus been drawn to the subject of the fisheries should lead to an adjustment, by amicable negotiations, upon a more satisfactory footing than at present, of the system of commercial intercourse between the United States and her Majesty's North American colonial possessions."[105]

Mr. Webster, who as Secretary of State had conducted the fishery negotiations, was fast failing in health, and on July 26, 1852, he wrote to President Fillmore relative to resigning his office at once because of his inability to stand another summer in Washington.[106] President Fillmore, however, earnestly desired Webster to remain in office, and intimated that he need visit Washington only when his health might permit.[107] But the end was much closer than any one had dreamed. Early in October Mr. Webster was confined to his bed, and on the 24th of the month he died.[108] His illness and death naturally delayed any settlement of the fisheries question, and it was not until December 4, 1852, that the new Secretary of State, Mr. Edward Everett, wrote to Mr. Ingersoll, the American charge d'affaires at London, with regard to both the fisheries and to commercial reciprocity. Mr. Everett expressed the satisfaction of the government of the United States at the pacific attitude adopted by the British Government and remarked as follows: "Some progress was made by Mr. Webster before his death in preparation to negotiate with Mr. Crampton

[105] Ibid., p. 8.
[106] Geo. T. Curtis, Life of Daniel Webster (N. Y., 1870), pp. 646–649.
[107] Ibid., p. 649.
[108] Ibid., pp. 680–705.

on the fisheries, and on the subject which the colonies and Great Britain are desirous of connecting with it—I mean commercial reciprocity between the United States and the British provinces. The President is still desirous that this negotiation should proceed, and it will be taken up as soon as possible. He is, however, of opinion, as the two subjects have no natural or necessary connexion, that it will not be advisable to endeavor to include them both in one treaty." [109]

[109] 32d Cong., special sess., S. Ex. Doc. No. 3, pp. 9–10.

CHAPTER III

The Conclusion of the Reciprocity Treaty

During the last two months of the Fillmore administration nothing was done relative to effecting a settlement of either the fisheries or the reciprocity question. On March 8, 1853, William L. Marcy entered upon the duties of Secretary of State in the cabinet of President Pierce,[1] and immediately began an earnest consideration of these two questions which were each day becoming more important. The new administration was determined to protect as far as possible the rights of American fishermen, and in the early part of July, 1853, James C. Dobbin, Secretary of the Navy, issued orders to concentrate a small naval force at Portsmouth, New Hampshire. The purpose of such a concentration was to afford "protection to such of our citizens as are there engaged in the fisheries," and Commodore W. B. Shubrick was placed in command.[2]

The following instructions to Shubrick, dated July 14, 1853, were significant:

> Reposing confidence in your judgment, prudence, and patriotism, the Navy Department sends you on a mission involving the discharge of delicate and responsible duties bearing at once on the protection of rights and the preservation of peace. Information has reached the Government of the United States that her Britannic Majesty's Government has stationed off New Brunswick, Nova Scotia, in the Gulf of St. Lawrence, and at other points along the coast of British American possessions, a considerable force of war steamers and sailing vessels, under the command of Sir George Seymour, fully armed and manned; that this array of naval strength is alleged to be destined for service in protecting the rights of British subjects, and preventing the apprehended encroachments of American citizens upon the "fishing grounds" reserved to Great Britain by the convention of 1818, as interpreted by her Majesty's Government; that a large class of enterprising and worthy citizens in the New England States have become apprehensive that there is

[1] 33d Cong., 1st sess., H. Ex. Doc. No. 21, pp. 2–3.
[2] Ibid.

a settled purpose to disturb them in the enjoyment of their fishing privileges, and in the absence of any naval force of the United States in that region, armed vessels have gone out with crews prepared to take the defence of their rights in their own hands.

In view of these circumstances, with a desire to quiet the public mind and furnish every assurance that the rights reserved to our citizens under the treaty of 1818 shall be promptly and sacredly protected, and the further desire to prevent collision, and promote fidelity to treaty stipulations, the Executive of the United States has concluded to send a naval force to cruise in the seas and bays frequented by our fishermen. . . .

If on any occasion you discover attempts making to deprive any of our citizens of their just rights, you will respectfully but firmly remonstrate, and if persisted in, you will take such steps as in your judgment will be best calculated to check and prevent such interference; never resorting to violence except as a matter of self defence and necessity.[3]

Early in July, 1853, it was very evident to John G. Crampton, the British minister at Washington, that affairs were fast reaching a critical stage. American fishing vessels were arming for any possible contingency, and an American naval squadron was about to repair to the coasts of the British North American provinces for the express purpose of protecting American rights. Inasmuch as the British view of American fishing rights was sharply at variance with that held by the Americans themselves, a collision between the naval forces of the two countries might occur at any moment. Crampton, after several conversations with Marcy, decided that it would be good policy to visit Halifax and consult with the British Admiral, Sir George Seymour, relative to the seizure of American vessels. Undue pressure on the part of the British Admiral would be plainly impolitic.[4]

After Crampton's return from Halifax, he and Marcy, in the latter part of July, repaired to Berkeley Springs, Virginia, to discuss the *projet* of a treaty that would comprehend both the fisheries and the commercial reciprocity questions. Through the kindness of Mrs. Edith Marcy Sperry and Prof. Charles S. Sperry, of Boulder, Colorado, the record of these conferences, contained in one of Marcy's

[3] Ibid., pp. 3–7.
[4] Crampton to Marcy, July 3, 1853, Marcy Papers, MS., vol. xxxix.

diaries, is presented here for the first time. Because of its evident value, the record will be given in full.

Berkeley Springs, Va., Aug. 1, 1853.

This day I resumed negotiations with Mr. Crampton, the British Minister, on a Treaty concerning the Fisheries on the Coasts of the British N. A. provinces and a reciprocal free Trade between the U. S. and her B. M. N. A. Provinces. We had before us sketches of a convention embracing these subjects. The conference was opened by reading over and comparing the two sketches; one prepared by Mr. Everett and Mr. Fillmore, and the other by the B. Gov't. In the British *projet* there was this clause in the first article: *provided that in occupying* and using the shore, etc., Am. Fishermen should not interfere "with the *operations* of Brit. Fishermen," which was objected to as too indefinite and difficulties might arise in the construction of it. I propose to substitute the following: "*Or with British Fishermen in the free and peaceable use of any part of said coasts in their occupancy for the same purpose.*"

After some discussion on the subject the alteration seemed to meet with the assent of Mr. Crampton.

The second article gives to British Fishermen the same right to fish, etc., on the coasts of the U. S. with liberty to come, etc., on our shores.

The third article relates to reciprocal free trade between the U. S. and the B. N. A. Provinces in the natural productions of each. There is in it an enumeration of the products, etc., to which this article applies. The great difficulty in negotiating the Treaty has been to agree upon the list of products.

Mr. Crampton urges the insertion on the list of the following articles, viz.: *Coal, Metals,—Skins, pelts* and *tails* to which I have objected.

Coal. In some respects the admission of N. Scotia coal into the U. S. free of duty would be advantageous. It is bituminous—much more so than any yet discovered in the U. S. and is therefore preferred by the manufacturers of gas to any kind of coal found in any part of the U. S. A. Large interest daily and rapidly increasing would be benefited by retaining this article on the schedule. On the other hand, it is apprehended that the states on the Atlantic in which coal abounds and especially bituminous coal, will be opposed to removing the duty upon the coal imported from Nova Scotia.

It is believed that Pennsylvania (the greatest coal state in the Union) will not be much opposed to this feature in the treaty for two reasons: First, it has not much bituminous coal—the only kind which comes in competition with that of Nova Scotia in our market on the Atlantic border. The free introduction of coal into the B. N. A. Provinces, particularly Canada, would create a good demand for the anthracite coal of that state. The demand for that kind of coal in Canada, now considerable, is rapidly increasing, and will soon be very great; the principal source of supply is in Pennsylvania. In balancing the amount of advantage and disadvantage I have no doubt that so far as Pennsylvania is concerned the former would greatly preponderate over the latter, but with Maryland and Virginia I fear an opposite result, and from these states there would

probably be strenuous objections to the admission of N. S. coal duty free. I have been told the Cumberland coal is preferable for the use of steam vessels and much of it is now used by the B(ritish) steamers. Before the treaty is closed it will be proper to get more accurate information as to this fact.

August 2d. I met Mr. C. again and we spent about two hours in general discussions on the various provisions of the Treaty, particularly on the list of articles to be inserted on the free list. We agreed to insert several new ones in it, *Lard, Rice,* etc. To these (except Sugar un-refined) Mr. C. did not make any objection, but I do not believe he will admit any of them until he learns the views of the home government.

I learned from him in this interview that he had written to Ld. Clarendon for instructions on the propositions which I had previously submitted to him, viz.: to exempt the coasts of Florida from the privilege of B. subjects to fish on our Coasts and to extend the provisions of the Treaty to the Pacific Coast. It is evident that Mr. C. does not see any serious objections but will not assent to these propositions until he is instructed to do so. He is daily expecting a reply to his communication to the home government.

In this interview Mr. C. read to me (in confidence) his instructions from Ld. John Russell. It does not appear from them that any point we object to is made a *sine qua non,* but he is directed to insist upon retaining coal on the list and to getting the bounty to our Fishermen removed and the registry of B. built vessels when they become the property of American Citizens.

These are, in truth, the only obstacles to the immediate conclusion of the Treaty—the Coal, Registry, and Bounty. On this day he handed to me a long printed paper being a communication from the Board of Trade commenting much at large on the provisions of the projet of this treaty and presenting other matters in regard to commerce between these two countries with a view to have some of them introduced into this treaty.

This communication went fully into our commercial relations with G. B. After our interview I read it carefully and prepared myself to remark on it at our next meeting.

Wednesday, 3d August. I met Mr. C. at 11 o'clock at our room where we resumed our conferences. I objected to embracing the new matters contained in the *printed* instructions into this negotiation and Mr. C. seemed to be willing to pass them by. We then discussed the articles on the list and added several to them—to wit, *Lard, Rice, Stone, Unwrought Marble,* etc. To these Mr. C. did not make any objection but as he had no specific instructions in regard to them he did not explicitly agree to their insertion: but to *sugar unrefined* he strenuously objected on two grounds: 1st sugar was an article on which the colonies levied an impost duty and if admitted free from the U. S. they would be obliged to give up that duty. This would be a change in this financial system to which they could not consent. 2d it would be impossible to distinguish between sugar of American growth and that which was imported into the U. S. and taken thence to the Provinces and entered as a product of the U. States. The discussion of these matters consumed our interview on the 3d of August. The meeting arranged for the 4th of Augst. was deferred until the next day. Mr. I. D. Andrews having arrived

on the evening of the 3d I spent most of the 4th with him and in examining documents and statistics which he with Great labor prepared.[5]

In the early part of August, 1853, Marcy returned to Washington, and at once wrote to Edward Everett, who, under the Fillmore administration, had immediately preceded him as Secretary of State, and requested his advice with regard to the pending reciprocity negotiations with Great Britain. Marcy was particularly interested in the attitude of Great Britain relative to the admission of British built ships to American registry, and the payment by the government of the United States of bounties to American fishermen. In his answering letter, Everett not only discusses those two important questions, but also the extension by Great Britain to American citizens of the liberty to take fish along the coasts of British Northwest America, and the possible dangers of including coal in the free list of the treaty. Under date of August 15th, he wrote:

I think on general principles it would be highly expedient to provide for fishing reciprocity on the Pacific; but how it would bear on *immediate interests*, I have no knowledge. *We* shall fill up so much faster than *they* will in British Pacific America that the advantage can hardly fail to be on our side. We shall send ten fishermen to their waters for one they will send to ours.

Florida is warmly opposed to having the reciprocity extend to her coasts, and I presume it is quite desirable to exempt them if possible. It cannot be of any great importance to the British if you let Crampton understand,—what I am told is the case—that the opposition grows out of jealousies connected with Slavery, and not from any wish to contract their enjoyment of reciprocal fishing privileges, he will not, I think, object to the exemption.

Now with respect to the points on which you are at issue. I do not think you can give way on the subject of Registry. I was at first disposed to risk it, and got some opinions from practical men at the last in favor of it; but, on further inquiry, I was satisfied that the Shipping interest would not stand it. I mean the ship-building interest. I believe they underrate their capacity to compete with the Provinces, but these are things that cannot be forced. I wrote a private letter to Lord Aberdeen telling him that it was at present out of the question to admit their vessels to registry.

With regard to the Bounty. I am under the impression that it is of very little consequence. Our deputy collector here last autumn (who understood the subject thoroughly) told me that it did not pay for the trouble of having the papers made out, and in many cases was not claimed by the parties entitled to it.

[5] Marcy MS., Diary, pp. 1–12.

With regard to Coal, I think our Penna. and Virginia friends stand in their own light in refusing to admit it into the free list. Certainly the Pennsylvanians do, for the Province coal is a different affair from the Penna. anthracite, and used for different purposes. We shall very soon send *more* coal into upper Canada than we import from Nova Scotia.

My impression is, at present, that you may, without danger, give up the bounties, though I reserve the right of changing this opinion. The subject was not discussed between Crampton and me. That if you cannot help it you may give way on coal, though this will cost votes from Penna. and Virginia when the convention and the law to execute it are before Congress; and that you cannot admit their ships to registry. Crampton will tell you, if you do not, that they will be obliged to take from us the registry we now enjoy, with them; but I doubt if they would, and I do not think our shipbuilders would care much if they did. But few of our vessels thus far, have been sold in England.[6]

Marcy was evidently impressed by the counsel of Everett, so on September 1, 1853, he addressed a note to Mr. Crampton and enclosed a *projet* of a treaty which dealt only with reciprocal fishing rights, commercial reciprocity, and the navigation by American citizens of the St. Lawrence river and the Canadian canals. There was no mention of either the question of registry or of bounties. In article one of the British *projet,* which had been discussed in the August conferences at Berkeley Springs, there was a clause that read: "Provided, that in occupying and using the shore the American fishermen should not interfere with the operations of British fishermen." In article one of the *projet* submitted by Marcy on September 1, 1853, this clause was amended so as to read: "Provided, that in so doing they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of said coast in their occupancy." In all previous *projets* the island of Newfoundland had been omitted with reference to the liberty of American citizens to catch and cure fish. In article one of the *projet* of September 1, 1853, Newfoundland was expressly included in the enumeration of the British provinces along the coasts of which Americans were to enjoy fishing liberties.

[6] Everett to Marcy, Aug. 15, 1853, Marcy Papers, MS., vol. xli.

Article two of the *projet* of September 1st is merely an expression of both Marcy's and Everett's views as to the expediency of exempting the coasts of Florida from any reciprocal fishing privileges provided for under the treaty. According to this article, "British subjects shall have in common with the citizens of the U. S., the liberty to take fish of every kind, except shellfish, on the coast and shores of the U. S. (except the coasts of the State of Florida and the adjacent islands) . . . and in the bays, harbors, and creeks of the U. S. and of the said islands, without being restricted to any distance from the shore; with permission to land upon the coasts of the U. S. and of the islands aforesaid (except the coast of Florida and the adjacent islands), for the purpose of drying their nets and curing their fish."[7]

Article three is also an embodiment of one of Marcy's ideas that was approved by Everett. According to it the citizens and subjects of the high contracting parties shall enjoy the liberty of taking and curing fish along "the coasts of the Pacific Ocean, and in the bays, harbors, and creeks of the said possessions; and on the coasts and shores of the adjacent islands belonging to either party, without being restricted to any distance from the shores."

With regard to the free list, the *projet* of September 1st contained many new and important features. First of all, manufactures of every kind and books were excluded. Then in deference to Southern interests, rice, tar, pitch, and turpentine were added. Furs were included as a concession to the provinces, for which Marcy believed some equivalent should be offered. But next to manufactures, the most important omission from the free list was coal. Marcy was fearful that if it were admitted duty free, not only Pennsylvania, but also Virginia and Maryland would stir up so much opposition that the treaty would never pass the Senate. As an inducement to the British provinces to agree to

[7] U. S. For. Rel., 1873, pt. 2, pp. 295–297 (Wash. 1874).

this omission, Marcy failed to include in the free list either leaf tobacco or unrefined sugar.[8]

President Pierce appeared to take special interest in pushing these reciprocity negotiations to a successful conclusion, so in the early part of September, 1853, Israel D. Andrews was appointed special agent for the United States Government to "visit the North American colonies for the purpose of obtaining . . . all the information in your power relating to Trade and Commerce, and the present state of political feeling in the colonies, and the exact state of their relations with Great Britain and this country."[9] Some years previously Andrews had been employed by the Treasury Department to make a report on the "trade, commerce, and resources of the British North American colonies," and in December, 1850, it was completed. It is quite voluminous, some 775 pages in length, and is a veritable storehouse of information.[10]

Andrews, therefore, was the logical man to appoint as special agent, and Marcy, who was well acquainted with his capabilities, knew him to be much more than a mere compiler of statistics. According to his official instructions, dated September 12, 1853, his duties were "important and delicate," and required the exercise of "discretion, vigilance, and constant application." The instructions read:

> You are aware that a project of a Treaty has been quite recently prepared by me and submitted to the British Government with a brief despatch which is, as you know, the first offer ever made, in this form, on this question, and whether accepted or not will undoubtedly form the basis of a permanent Treaty.
>
> Your position as an officer of this Government, residing for several years in the Colonies and your acquaintance with the principal Colonial officers and . . . with Colonial Trade, . . . will, it is believed, aid you in carrying out the views of the Department, and enable you to report on those matters in which the Government feels a lively interest.
>
> The Government is aware that the Colonies are not agreed nor united on the question of Reciprocal Trade and the Fisheries, and

[8] Ibid., p. 296.

[9] Marcy to I. D. Andrews, Sept. 12, 1853, Pierce Papers, MS., vol. iv.

[10] 31st Cong., 2d sess., S. Ex. Doc. No. 23.

that a treaty which would be satisfactory to Canada might not be acceptable to the lower Colonies particularly New Brunswick and Nova Scotia.

The Government is not unmindful of the necessity of having this Treaty acceptable, as far as possible to all the Colonies, being desirous that this, the first treaty made with Great Britain with entire reference to the Colonies should have the effect of settling the various conflicting questions now at issue between the Colonies and this country and, not only increasing the commercial intercourse, mutually advantageous, but to stimulate and extend an increased regard and interest for this country and its institutions.

Although the feelings and sympathies of a people sometimes follow in the same channel as its trade and commerce, and while it would be gratifying to see such a result in this instance, you are fully aware of the circumstances attending the early settlement of the colonies, their past relations with Great Britain, and the exertions of the power to influence the public feeling there with the view of having always a permanent control over the local concerns and political opinions of the colonies.

You will therefore, in a proper manner confer with the most influential men in the colonies to express the interest this Government has in their advancement and its wish to tighten the bonds which unite the two countries.[11]

Although the British Government now had a copy of Marcy's *projet* of a treaty, yet they seemed in no hurry to conclude a treaty. Relations with Russia were growing more strained every day, and the impending war appeared to absorb most of the attention of the British Government.[12] Another important reason why the conclusion of a treaty of reciprocity was delayed was on account of the habitudes of the British minister, John C. Crampton. Crampton, though personally affable, was "constitutionally indolent," one who preferred his own ease to bestirring himself actively even on matters of moment to his country. Lord Redesdale, who knew him well, gives the following characterization:

The truth is that he was a Bohemian of the Bohemians, a man . . . to whom the donning of a fine coat and a star was little short of torture. I knew him well, for he was a contemporary of my father's in the service, and there were few days—when he was on leave in London—on which he did not knock at our door. He had all the gifts of the Irish raconteur, and his stories were enhanced by the charm of a musical speaking voice—a great, handsome, leonine figure, with his silver hair and beard, whose advent we always hailed with joy. . . . With us and very few other friends he would

[11] Marcy to I. D. Andrews, Sept. 12, 1853, Pierce Papers, MS., vol. iv.

[12] B. E. Schmitt, "Diplomatic Preliminaries of the Crimean War," in the American Historical Review, Oct. 1919, pp. 36–67.

sit by the fire, a great tame cat, purring the livelong winter afternoon. However great his personal attractiveness might be he was certainly not successful as a diplomat.

When he was at Washington, President Pierce broke off relations with him on account of his recruiting activities. . . . It was the one case in which he overcame his constitutional indolence, and it was not lucky.[13]

On December 22, 1853, James Buchanan, the American minister at the Court of St. James, wrote Marcy an interesting letter concerning both Mr. Crampton and the reciprocity negotiations. "I like Crampton," Buchanan remarks, "but it is unfortunate that the English minister at Washington is not better known and does not enjoy a high position and perhaps more influential connections at home. The next time I see Lord Clarendon I shall speak to him again on the Fishery and Reciprocity questions. Lord Elgin is now in London, who will have much influence on these questions. I met him the other day at Lord Canning's and we had a little conversation across the table having a remote bearing on this subject, from which I did not augur very favorably."[14]

In Buchanan's next letter, January 28, 1854, he remarks that the English were growing embittered against the United States because of our admiration for the Czar. Crampton, meanwhile, had been even more indolent than ever. During his attendance at a certain public function in Washington he had neglected to rise when the American National Air was played. Naturally this did not increase his usefulness as British minister, and even Buchanan, who still admitted a certain amount of affection for Crampton, could not forgive such a "breach of courtesy."[15]

On March 11, 1854, Marcy addressed detailed instructions to Buchanan relative to the fisheries and commercial reciprocity. It had been five months since Marcy had submitted to Crampton the *projet* of a treaty, but the British government had indicated no strong desire to act upon it. Marcy's

[13] Lord Redesdale, Further Memories (London, 1917), pp. 292–293.
[14] Marcy Papers, MS., vol. xlvi.
[15] Buchanan to Marcy, Jan. 28, 1854, ibid., vol. xlvii.

instructions are vigorous and to the point, and owing to their obvious importance they are quoted in full:

The negotiations for the Fisheries and reciprocity of trade with the British North American Colonies has been suspended for more than five months in consequence of the delay on the part of the British Government to act upon the projet of a treaty which I submitted to Mr. Crampton early in September last. It was supposed until lately that this delay was owing to the time required by Great Britain to ascertain the views of the several provinces on the subject, but I now have reason to believe that the Home Government has but very recently taken any steps to become acquainted with these views and that it has finally, without much reference to the wishes of the provinces, declined our overtures unless we will yield almost every point of difference which arose in the progress of the negotiation. Within a few days past Mr. Crampton read to me part of a despatch from Lord Clarendon from which I infer that there is no desire on the part of the Home Government to conclude the proposed Treaty. The despatch stated that the Provinces were now prosperous and much less solicitous than they had been for reciprocal free trade with the U. S. It insisted that "coal" and "metals" shall be inserted in the list of free articles. The propositions to grant to our citizens the free use of the River St. John—to except the coast of Florida from the use of British Fishermen—and to open the British coast of the Pacific to our Fishermen in common with those of Great Britain are all peremptorily overruled, and with no reason assigned therefor, except as to the latter, and the reason assigned for overruling that proposition is, that the right to fish about Vancouver's Island had been granted to the Hudson's Bay Company. Not much was said in the despatch in relation to the surrender of the Bounty upon the cod-fishery but the admission of Colonial built vessels to free registration in the U. S. when they become the property of our citizens was much insisted on.

The language of the despatch conveyed clearly to my mind the impression that the registration of Colonial built vessels was regarded as a *sine qua non*. If this be so then the negotiation must fail for that point cannot be yielded.

Lord Elgin, the Governor-General of Canada, is, I believe yet in England, and Mr. Hincks, the Inspector General for that Province has recently sailed for England and expects to be absent about three months. Mr. Hincks has heretofore been much consulted on the subject of the Treaty, and great consideration has been given to his opinion. I understand that he is still hopeful of the success of the negotiation. He probably understands as well as any other individual the views and wishes of the several Provinces; and it is barely possible that he may exert a favorable influence upon the Home Government in this matter. But as there is, however, a probability that no Treaty will be concluded, it is proper to consider what, in this event will be the condition of things on the fishing grounds in the approaching season. The citizens of the U. S. having enjoyed the undisturbed and unquestioned right to fish in the large and open bays along the coast of the British North American Provinces for nearly a quarter of a century after the conclusion of the convention of 1818, this Government will not yield to the more recent construc-

tion of it whereby they are excluded from these bays—it will maintain the contemporaneous practical construction given to that compact by both parties. Not until within ten or twelve years was any question raised as to the rights of our fishermen to resort to, and take fish in these bays. Should Great Britain persist in her recent construction of that Convention, and attempt to prevent our fishermen from taking fish in the open bays, a collision can hardly be prevented. The United States will claim for their fishermen this right and feel bound to maintain it at any hazard.

The Convention of 1818 excludes the citizens of the U. S. from the in-shore fisheries . . . that is from taking fish from within a marine league of the British shores; but it cannot be expected that they will in all instances respect this boundary. This business of fishing has very much changed of late years. When the Convention of 1818 was entered into the taking of cod was the all-important branch of the fisheries; but now it is superseded in point of importance by the mackerel and herring fishery. More vessels are fitted out in the U. S. for taking mackerel and herrings which are mostly caught in-shore, than for cod fishing. Our fishermen, when they fall in with shoals of them, will not resist the temptation of following them within the shore limit fixed by the Convention of 1818. Though the right of Great Britain to keep them beyond the limit cannot be questioned, force alone can effect the object. Owing to the great extent of coast, quite a number of armed vessels will be required for this service.

Disputes will constantly arise as to the true line of exclusion. Embarrassing questions of this kind have already arisen and produced unpleasant discussions between the two Governments. Such cases will prove a constant source of irritation and controversy and may disturb their peaceful relations.

For the last two years great pains have been taken to inculcate a spirit of forbearance on both sides. On the part of our fishermen a disposition was manifested last year to go on their fishing trips prepared to maintain their rights, as they understood them, by force of arms; but by the interposition of the Government accompanied with the assurance that negotiations were on foot by which their rights would probably be extended, and that any collision would be sure to defeat that object, they were prevented from carrying out their design. When such an inducement can no longer be presented to them there will be reason to apprehend a less cautious and prudent course on their part. They will bring the question of their right to fish in the open bays to a direct issue.

As soon as it is ascertained that the difficulties in relation to the fisheries cannot be arranged by negotiation this Government will prepare to sustain our fishermen in the assertion of all their rights on the coasts of the British Provinces; and these rights are regarded here to be more extensive than those conceded to them by Great Brit. or the Provinces.

The President expects that you will avail yourself of any proper occasion that may offer, to impress upon Her Britannic Majesty's Ministers the importance of having all disputed questions as to the Fisheries adjusted as well as other matters. If the negotiations for a treaty should fail, the British Government should consent to abandon her pretension to exclude our fishermen from the open bays along the coast of her North American Provinces.

The U. S. in case of a failure to make a permanent arrangement on this subject, would find no difficulty in entering into a temporary one,—in substance such as you suggested to Lord Clarendon.[16]

The nature of these instructions clearly indicates how seriously Marcy regarded the situation, and a private letter to Buchanan on the following day, March 12, 1854, is of the same tenor. "The fishery negotiation," observes Marcy, "looks dubious. If the negotiation falls through and England insists on excluding us from the open Bays, there will be trouble."[17]

Buchanan, however, was not so fearful of any conflict between the United States and England. In a letter to Marcy, March 31, 1854, he dismisses such a contingency as quite unlikely. "They cannot afford," he confides, "to go to war with us. In the present condition of England, which I have not time to explain, it would be ruinous to them." Then with reference to Crampton: "Without any but the most kind and even friendly feeling towards Mr. Crampton, I cannot think he is the proper man to represent his country in the United States. He is comparatively unknown at home, and his family are without influence in this aristocratic country. The American papers have stated that he is about to leave our country, and should this prove to be true, I shall endeavor to have the right kind of a minister appointed in his place. I am convinced that from motives of interest, if not from higher motives, the British Government and people are earnestly desirous to be on good terms with the United States, and Lord Clarendon has desired another postponement of our conferences until next week on account of his duties in Parliament this week on the war questions. I shall then give him another plain talk about the Fisheries."[18]

In the meantime, Mr. Israel D. Andrews, who had been commissioned as special agent of the United States in September, 1853, for the purpose of influencing the Canadian Maritime Provinces in favor of a treaty, was not having the

[16] Marcy Papers, MS., vol. xlviii.
[17] Ibid., Private letter book, 1853–1855.
[18] Marcy Papers, MS., vol. xlix.

greatest success attend his efforts.[19] On April 3, 1854, in a despatch to Marcy he suggested that some few thousands of dollars be placed to his account in order that he might silence opposition and promote a more favorable attitude towards the proposed reciprocity treaty. Marcy, however, was not enthusiastic as to the employment of such means, and in his instructions, dated April 10, 1854, he outlined his objections as follows:

> I have just received your confidential despatch of the 3d instant, written at St. Johns, N. B. The prospect therein presented of a successful close to the Fishery negotiation is gloomy indeed, and I am not hopeful of improving it in the way you propose. I have always been distrustful of attempts to change the public opinion of any community by such means as you refer to. In order to have a letter reach you at the time you suggest I must send it off before I can consult with the President. Should it be deemed proper to use the means you intimate, it cannot be done at this time. The contingent fund is now reduced to about $5,000, hardly sufficient to meet the ordinary and inevitable drafts upon it for the current year which will end on the last day of next June. In anticipation of a deficiency, I have asked an addition to it of $15,000 in the Deficiency Bill, but that has not passed, and there are serious apprehensions that it will not pass Congress.

[19] It was in the province of Nova Scotia that Andrews had to face his most difficult problem. The leaders in that province were forever fearful that the British Government was likely to give generous concessions to American fishermen without exacting commensurate commercial privileges. Throughout the year 1852, they continued their activities, and in September, 1852, the citizens of Halifax adopted resolutions which "from beginning to end" showed "a spirit of deep hostility to the U. S., and a determination to be satisfied with no terms of accommodation which would be entertained by our government." The language of the 9th resolution is typical: "Resolved, that while more than one half of the seacoast of the republic [i. e., the U. S.] bounds slave states, whose laboring population cannot be trusted upon the sea, the coasts of British America include a frontage upon the ocean greater than the whole Atlantic seaboard of the United States. The richest fisheries in the world surround these coasts. Coal, which the Americans must bring with them, should they provoke hostilities, abounds at the most convenient points. Two millions of adventurous and industrious people already inhabit these provinces, and the citizens of Halifax would indeed deplore the deliberate sacrifice of their interests, by any weak concessions to a power which ever seconds the efforts of astute diplomacy by appeals to the angry passions—the full force of which has been twice on British America within the memory of this generation, and, in a just cause, with the aid of the mother country, could be broken again" (32d Cong., 2d sess., H. Ex. Doc. No. 23, pp. 450–451).

I shall lay your communication before the President for his views upon the subject, and as soon as ascertained will address you again at Halifax.

If Great Britain is determined not to act otherwise than the wishes and caprice of each Colony indicate, it is hardly to be expected that anything can be done. If I had known that such was to be her rule of conduct, I should have dispaired of success from the beginning. We cannot purchase by concession all that each Colony may demand.[20]

But President Pierce was evidently more interested in bringing to a successful conclusion the reciprocity negotiations than Marcy had imagined, for on April 15th Marcy sent fresh instructions to Andrews in which the suggestions of the special agent are specifically adopted and a special fund placed to his account. The instructions are very important and are partially reproduced as follows:

I have laid before the President your confidential letter to me of the 31st ultimo. In consideration of the very great importance of the matter in which you are engaged he deems it to be his duty to use all proper means at his disposal to bring it to a successful conclusion. Your drafts on the department, provided they do not altogether exceed $5,000, will be paid. You will be of course required to account in the ordinary way or to him confidentially for the expenditure of the sum you may thus receive.

Since you left this place I have had several conversations with Crampton relative to the pending negotiation. The condition of political affairs in Europe has made the Gov't. of Great Britain unusually anxious to avoid difficulties with the U. S. We should probably be able to make a satisfactory arrangement with the home government were it not for the embarrassments thrown in the way by the Provinces. The home government is very much disposed to defer in this matter to their wishes. However anxious it is to escape apprehended difficulties with the U. S. it is not less anxious to avoid difficulties with its North American possessions. Mr. Crampton has informed me that he now has much more enlarged powers in regard to the negotiation than he had heretofore had, and I have no doubt that he is fully authorized to yield any or even all points of difference provided he shall be satisfied that the Provinces will approve or acquiesce in what he may do. It is evident as we have all along foreseen that the obstacles to be overcome are presented by the Colonies. It is with them we are to labor in order to remove these obstacles. I am under the impression that hitherto Mr. Crampton has not and does not now favor a meeting of delegates from the Colonies in this city. I am not quite sure that he approves of such a meeting at the City of New York. He spoke of efforts to be made by him to induce the provinces to acquiesce in a proper arrangement, but did not disclose very distinctly the mode in which it was to be done.

[20] Marcy Papers, MS., vol. xlix.

He remarked to me that he had stated to his government that the registration of colonial built vessels was in his judgment the most serious, and perhaps the only difficulty—but the manner in which he alluded to that, left it doubtful whether the other points would be yielded to or by us.

I hope for much good from your presence and efforts in the provinces. Whatever is done must be done promptly—for the fishery season will soon come and with it the apprehended difficulties. I regret the circumstances which have produced so much delay. Lost time must be made up if possible by promptness and diligence.

I expect you will keep me well advised of your movements and doings. It may be necessary for me to communicate with you and that I may do so you must designate the places at which my letters will be most likely to reach you.[21]

After receiving this authorization Andrews quickly made the most of his opportunities, and in a short while expended a large part of the $5,000 placed to his credit. By the latter part of April he had expended $3,483.00, which he itemized as follows:

For the following sums necessarily expended . . . at Halifax, and other places on the public service, and for which it was impracticable to procure vouchers.

Paid to confidential agents for special services	$ 825.00
Postages, telegraphs, messages	53.00
For four agents whose services were necessary to accomplish special objects of an important and delicate character	730.00
Dinner parties, coach hire, and other extraordinary expenses of a like character which I was called upon as a matter of course to defray	575.00
Paid to persons in public departments for statistical and other information essential to the fulfillment of my instructions	250.00
Confidential agents in the country districts	300.00
Paid at various times and different parties in the fishing districts	450.00
Paid for procuring valuable and necessary information from Public departments	300.00
	$3483.00

Some of these items are quite interesting, and especially so is the one entitled "dinner parties, coach hire and other extraordinary expenses." Andrews must have been convinced that President Pierce was particularly interested in the success of the reciprocity treaty, for this was only a beginning, and he very soon passed far beyond the paltry five

[21] Ibid.

thousand dollars that had been placed to his credit for extraordinary expenses.

The next expense account that he rendered is both large and long, and is given here in full:

For the following expenditures made by him as per accompanying vouchers.

No. 1. *W. H. Needham,* Fredericton, 1st May, 1854. For £210 paid to him for certain purposes of a government and legislative character ..... $ 840.00

2. *M. H. Perley,* St. Johns, May 13, 1854. For expenses of telegraphic messages sent by Mr. A. 51.00

3. *E. G. Fuller,* Halifax, April 22, 1854. For this amount expended by him (and for which he furnished Mr. Andrews with a receipt), on subjects affecting the interests of the U. States in this Colony, which were disbursed in a private manner for the following purposes.
To the Sun and other papers for publishing editorial articles.
To contributors for preparing articles.
To secret agents for special services.
For postages and telegraphic messages.
Presents to various parties, coach hire, dinner parties, etc.
To persons in public departments, expedition money, etc.
To active persons in Country districts.
To influential persons in Fishing Districts.
Procuring early information from public departments.
Contribution to Election Expenses for Gov't Candidate, etc. 3,900.00

4. *George Coggswell,* St. Johns, Dec. 21, 1853. For traveling to Halifax and back, 560 miles, on government business of private character 165.40

5. *J. P. Keefee,* Montreal, Dec. 3, 1853. For services and expenses of a journey to Quebec to see the Hon. M. Ross, the Attorney General of Canada, and Mr. Taché, Commissioner of Public Works, to take certain steps in relation to the Fisheries in the Gulf of St. Lawrence and in Nova Scotia 313.20

6. *George N. Hill,* Halifax, Apr. 18, 1854. For services at Nova Scotia about fisheries 247.00

7. *Wm. Mackay,* St. Johns, May 10, 1854. On account of services and to be expended 314.00

8. *William Noble,* Halifax, Apr. 21, 1854. Expenses of special messengers to Prince Edward Island and Newfoundland with despatches 349.00

9. *Robinson & Thompson,* St. John, May 18, 1854. For sundries 206.80

10. National Hotel, Washington. Board and Parlor .. 1,282.75

$7,669.15

For the following expenditures not supported by vouchers.

Paid privately and by myself to officials, leading persons and the press and to others from whom it was not proper to ask for, or to expect vouchers, as follows:

In Quebec $570, Montreal $465, Halifax $810, Pictou and for the shore near the Gut of Canso $800, Annapolis and Digby Gut $330, Fredericton $280, St. Johns, N. B., for Gulf Shore and Gaspé $963 ..... $4,218.00

To P. F. Little, Member of Provincial Assembly, Newfoundland, since appointed a delegate from that Colony to the British Government, and who was also a delegate to meet Lord Elgin in Quebec. He has done this government and the Treaty good service $1,150.00

I am to pay this sum when I return to the Provinces, in New Brunswick and P. E. Island, in the lower part of Canada and Nova Scotia, viz. $2,683.00

Paid in Washington 3,000.00

11,051.00

Add amount for which there are vouchers 7,669.15

[22] $18,720.15

The explanations and remarks of Mr. Andrews relative to these expenditures are very important and, I believe, should be quoted in their entirety:

No. 1. Mr. Needham presented resolutions in the New Brunswick assembly adverse to a surrender of the fisheries.

No. 3. It was absolutely necessary to have a private and efficient agent at Halifax, on account of the state of public feeling in that important fishery region, and in view of the magnitude of the interests at state. Mr. Fuller is an American, a native of New York, and he did this Government a good service, without fee or reward of any kind, whatever.

Except those amounts *unpaid,* for which I am held personally responsible, I have paid *all* bills, from amounts received from the Government, and from my own funds that I received from the Secretary of the Treasury for my Report. I now owe three thousand dollars borrowed money, in this city, and several thousand dollars in this and other places, which I found it absolutely necessary to use without hesitation to advance the Treaty, and in no single instance has there been any squandering, recklessness or looseness in the way of money matters.

I trust that the Secretary of State will not overlook the deep feeling in the Lower Colonies, particularly in Nova Scotia and New Brunswick, who were in reality prominent parties to the negotiation —which feeling was quite the opposite to the public sentiment in Upper Canada, *which Mr. Hincks only represented*—and it was decidedly opposed to a surrender of the fisheries to the Government and people of the United States.

[22] Pierce Papers, MS., vol. iv.

This state of feeling was produced by the former indifference and inaction of this Government, by the conduct of Mr. Hincks, by a more just appreciation of the value and importance of their fisheries and by the inefficient and by no means politic course of Mr. Crampton.

I have already fully explained this point in my despatch of May 13, to the Secretary of State.

The necessity of having unanimity amongst all the Colonies, this Government will no doubt appreciate.

During the progress of the negotiations, I had uniformly maintained my intimate relations with Mr. Hincks (who during a great part of the time was at the head of the Canadian Government) and other influential persons in the Colonies, and when I met Mr. H. in New York, in February, on his way to England, it was, at my suggestion arranged, that either Mr. Crampton should have fresh instructions, or that Lord Elgin should return from England with full power to make a Treaty. It was a condition of that arrangement, that I should undertake the management of matters in the Lower Colonies, which Mr. Hincks confessed were beyond the power of either himself or Mr. Crampton.

On my return from New York, I informed the Secretary of State of all I had done, stated my convictions that the negotiations would now "be successful," but that I required funds to overcome the energetic and rising opposition in the Lower or Atlantic Colonies.

No matter what opinions may be entertained *now*, of the wisdom of my management, I unhesitatingly declare that the Expenditure saved the Treaty, so far as the Lower Colonies and the lower part of Canada had the power to oppose it. Lord Clarendon considered this opposition so formidable that he refused to go on unless that opposition was withdrawn.

I have asked in my statement only for what I have expended or am liable for. That amount cannot be reduced except at my loss, and it is for the Government to decide (as I wish them to decide, quite independent of individual claims) if the small sums asked for, bear any comparison to the results obtained.

If it were proper or practicable, I should feel no hesitation in applying to Congress for this and even larger sums to defray the necessary expenses of the Reciprocity Treaty.

The sum of Three thousand Dollars, will, if required, be the subject of personal explanation to the President or Secretary of State. The circumstances under which it was applied, are of so delicate a nature, that I do not conceive it judicious to make any explanation even in this confidential communication.

I have used names freely, and have expressed my views frankly, with the conviction that it is all in strict confidence, and that whether my statements and explanation are received or rejected, all will be destroyed by order of the President.

I have nothing to say of four or five years services, nor of personal sacrifices I have made to have this measure carried.

If in the form of pay or reimbursements of Expenses, or any other honorable mode, I am made anything like nearly whole, I shall be satisfied.

It is fortunate that this itemized list of expenditures and the accompanying remarks of Mr. Andrews were not "destroyed" in compliance with his request. In the Department of State, at Washington, the Andrews papers are not open to investigators, and up to this time no one has suspected that the government of the United States was so greatly interested in the success of the reciprocity treaty that it sent a special agent to the Lower Provinces, with thousands of dollars to his credit, to promote a friendly attitude towards such a convention. Some items arrest particular attention. For instance number one reads: "W. H. Needham. Fredericton, May 1, 1854, for 210 £ paid by him for certain purposes of a Government and Legislative character. $840.-00." Previous to this payment, Mr. Needham had presented resolutions "adverse to a surrender of the fisheries." After this "disbursement," which "was absolutely necessary," Mr. Needham's opposition evaporated, and he became an earnest supporter of the treaty. In Newfoundland "the Government and its party were opposed to any arrangement," so the sum of $1,150 was distributed there in various ways for propaganda purposes.[28] At Halifax, $3,900 was spent in the following manner: "To the Sun and other papers for publishing editorial articles; to contributors for preparing articles; presents to various parties, coach hire, dinner parties; to influential persons in Fishing Districts, etc."

It is not difficult to perceive from these significant items, and the above explanations of Mr. Andrews, that one of the main reasons for the final success of the reciprocity negotiations was the liberal expenditure of money by the special agent of the United States. And this money, moreover, was expended in such a confidential manner that vouchers could not be procured and forwarded to the State Department for examination. Ever since 1854, it has been insinuated by certain American writers that the reciprocity treaty was "floated" through the American Congress "on cham-

[28] Ibid., May, 1854.

pagne."[24] In the light of the above expenditures, such a charge appears to come with peculiar ill-grace from American historians.

Throughout the month of April and the early part of May, Andrews was indefatigable in his efforts to mould public opinion in the Lower Provinces in favor of the treaty. On May 4, 1854, he sent the following despatch to Marcy from St. John's, New Brunswick:

> I have this moment returned from Fredericton again to which city I hurried overland to be there before the legislature adjourned.
>
> After several interviews with the Governor and the leading men of the Council, it was not deemed to be advisable to have a public discussion at this time, as it might probably increase the opposition on the North Eastern Coasts.
>
> The Governor will, however, appoint delegates and will if possible appoint those favorable to a settlement, notwithstanding it was debated in Council the other day and decided not to send delegates. It is considered judicial to keep the matter as quiet as possible for the present as a new election for Assemblymen will take place in a few weeks.
>
> The Governor, Sir Edmund Head, is a very able man, and is in the confidence of the leading statesmen of England.
>
> He has private news from Lord Elgin who will arrive in New York about the 18th instant, and who will, it is supposed, bring fresh instructions on the colonial questions, and it is not improbable he may go to Washington to see you and the President. On this point Sir Edmund is not fully advised.
>
> There will not be any cruisers fitted out by this Province. I had a very particular conversation with the Governor on this matter.[25]

On May 26, 1854, Marcy received his last despatch from Andrews relative to the reciprocity negotiations. Lord Elgin was already on his way to the United States to make a final effort to conclude some kind of a reciprocal convention, and it is apparent from the despatch of Andrews that he was largely instrumental in influencing the British Government to select Elgin for the important mission. The despatch is more brief than usual, and simply recounts the preparations being made by the delegates from the Lower Provinces to leave for New York where they were to con-

[24] Frederick E. Haynes, "The Reciprocity Treaty With Canada of 1854," in Publications of American Economic Association, vol. vii, No. 6, pp. 17–18.

[25] Marcy Papers, MS., vol. I.

sult with Lord Elgin and Mr. Crampton. Writing from Eastport, Maine, May 19, 1854, Mr. Andrews remarks as follows:

> I wasted a few days up the line for the action of the council and then got a telegraph from the Provincial Secretary and met Mr. Chandler at St. Johns. We came together to this place. Mr. Chandler goes on in the boat, his colleagues will follow by the next steamer. The other delegates are getting ready to move. Lord Elgin and Mr. Crampton may wish to go on independent of the delegates. Nothing satisfactory can be done unless the Colonies are consulted.
>
> When I met Mr. Hincks in New York in February, I told him that either Lord Elgin or Mr. Crampton should have authority to settle the matter, and I wrote to him every mail until April, urging him to call on Lord Clarendon with Lord Elgin.[26]

When Lord Elgin sailed from England for America in the spring of 1854, it was naturally supposed that he had been commissioned to bring to a successful conclusion the reciprocity negotiations that had been dragging their weary length through long, unfruitful years. Buchanan immediately assumed that Elgin was sailing to accomplish this specific purpose, but according to Buchanan's following despatch, Clarendon expressly denied this:

> I met Lord Clarendon at a party a few evenings ago and asked him if it was true that they had sent Lord Elgin on a mission to Washington to settle the Fishery question, explaining my hope that the report in the newspapers was well founded. He said His Lordship would visit Washington, as a person well acquainted with the interests of the Provinces and their relations with the United States, and he trusted good might arise from this visit; but from his conversation I doubt whether Lord Elgin has any specific instructions or authority upon the subject unless possibly it may be to conclude some temporary arrangement such as that suggested by myself. I am confirmed in this impression by a conversation with the Marquis of Lansdowne yesterday at my own house. Still great good may arise from Lord Elgin's visit, simply because he is a man of rank, of reputation, and of influence in this country, whose advice would go far to sustain the Ministry, in any course of conduct on the subject which he would recommend. Sir Henry Bulwer, I know, is anxious to settle the fishery question almost on any fair terms; and

[26] Ibid. Mr. J. W. Chandler accompanied Lord Elgin to Washington as the official representative of New Brunswick. Nova Scotia, alone, of the Provinces, was not represented in Lord Elgin's suite. See Sir Francis Hinck's Reminiscences (Montreal, 1884), pp. 233–236.

I have been pleased to observe in what very strong and favorable terms both he and Lady Bulwer, on all occasions speak of the United States.[27]

Lord Clarendon, later on, insisted "most strenuously" that he had definitely informed Buchanan "of the nature and character of Lord Elgin's mission before his departure" for America,[28] and on June 27th, in the House of Lords, he declared that the return of Lord Elgin to Canada afforded an "opportunity" which could not be "neglected," and that that was the reason he had been given instructions to journey to Washington and effect a settlement of the reciprocity and fishery questions.[29]

Lord Elgin and his suite arrived in Washington on May 26th, four days prior to the passage of the famous Kansas-Nebraska Bill. Party strife was at its highest pitch, and it was generally believed that no reciprocity convention could pass through Congress at that session. But there was really much more unanimity of thought relative to reciprocity with Canada than anyone imagined. The fishing interests were solidly in favor of it and the South had been deferred to by placing on the free list such important articles as rice, pitch, tar, turpentine, and unmanufactured tobacco. Besides, the South was somewhat apprehensive of the strength of the annexationist movement in Canada. This movement showed a rapid decline after 1849,[30] but this fact was not readily appreciated by Southern Senators and members of Congress who began to experience real fears that unless Canadian discontent was allayed through the operation of a reciprocity treaty with the United States, annexation might result. This would, of course, give a very substantial increase in political strength to the Free-Soil Party, and such a contingency must by all means be averted. Ac-

[27] Letters of James Buchanan to William L. Marcy, 1854, Marcy Papers, MS., special volume.
[28] Buchanan to Marcy, June 13, 1854, Marcy Papers, MS., vol. 1.
[29] Hansard (London, 1854), vol. 134, p. 730.
[30] Allin and Jones, Annexation, Preferential Trade and Reciprocity (Toronto, 1912), pp. 353–354.

cording to the recollection, in 1865, of Senator Collamer, of Vermont, it was precisely because of this fear that the South supported the treaty, and he asserted that Senator Toombs, of Georgia, admitted as much. "I remember well," declared Senator Collamer, "that on one occasion here after the making of the treaty, and soon after I had the honor of a seat in this body, when this question came up collaterally, I plainly stated that that was the motive with which that treaty had been made; that it had been made with a view to quiet the people of Canada and prevent their annexation to the North, which might disturb 'the balance of power' of our southern friends, and Mr. Toombs, then sitting on the other side of the Chamber bowed very low to me and said 'we have got the treaty; they have been quieted.'" [81]

Notwithstanding the fact that Lord Elgin and his suite arrived in the midst of intense political excitement, they immediately attracted considerable attention. Fortunately the progress of Lord Elgin's mission is fully, if somewhat flamboyantly, described by Elgin's private secretary, Laurence Oliphant, who possessed an unusual facility of expression, and in his endeavor always to be interesting, he often grossly exaggerated what he saw. But even with these limitations and qualifications, his account has some value. Undeniably, it has sparkle and movement. In his memoir he says:

> It was at the height of the season when we were at Washington, and our arrival imparted a new impetus to the festivities, and gave rise to the taunt, after the treaty was concluded, by those who were opposed to it, that "it had been floated through on champagne." Without altogether admitting this, there can be no doubt that, in the hands of a skillful diplomatist, that beverage is not without its value. Looking through an old journal, I find the following specimen entry. . . . "Got away from the French Minister just in time to dress for dinner at the President's. More senators and politics, and champagne, and Hard Shells and Soft Shells. I much prefer the marine soft-shell crab, with which I here made acquaintance for the first time, to the political one. Then with a select party of senators, all of whom were opposed in principle to the treaty, to Governor A's where we imbibed more champagne and swore eternal friendship, carefully avoided the burning question, and listened to stories good, bad and indifferent, till 2 A.M., when, after twelve hours of incessant entertainment, we went home to bed thoroughly exhausted."

[81] Cong. Globe, 38th Cong., 2d sess., 1864–1865, pt. 1, pp. 210, 230.

Meantime, to my inexperienced mind no progress was being made in my mission. Lord Elgin had announced its objection on his arrival to the president and the secretary of state, and had been informed by them that it was quite hopeless to think that any such treaty as he proposed could be carried through, with the opposition that existed to it on the part of the Democrats, who had a majority in the Senate, without the ratification of which body no treaty could be concluded. His lordship was partly assured, however, that if he could overcome this opposition, he would find no difficulty on the part of the Government. At last, after several days of uninterrupted festivity, I began to perceive what we were driving at. To make quite sure, I said one day to my chief:

"I find all my most intimate friends are democratic senators."

"So do I," he replied dryly, and indeed his popularity among them at the end of a week had become unbounded, and the best evidence of it was that they ceased to feel any restraint in his company, and often exhibited traits of Western manners unhampered by conventional trammels. Lord Elgin's faculty of brilliant repartee and racy anecdote especially delighted them, and one evening, after a grand dinner, he was persuaded to accompany a group of senators . . . to the house of a popular and very influential politician, there to prolong the entertainment into the small hours. Our host, at whose door we knocked at midnight, was in bed, but much thundering at it at length aroused him, and he himself opened to us appearing in nothing but a very short nightshirt.

"All right, boys," he said, at once divining the object of our visit; "You go in, and I'll go down and get the drink," and without stopping to array himself more completely, he disappeared into the nether regions, shortly returning with his arms filled with bottles of champagne, on the top of which were two large lumps of ice. . . . He was a dear old gentleman, somewhat of the Lincoln type, and . . . evidently a great character, and many were the anecdotes told about him in his own presence, all bearing testimony to his goodness of heart and readiness of wit.

At last, after we had been receiving the hospitalities at Washington for about ten days, Lord Elgin announced to Mr. Marcy that, if the Government were prepared to adhere to their promise to conclude a treaty of reciprocity with Canada, he could assure the president that he would find a majority of the senate in its favor, including several prominent Democrats. Mr. Marcy could scarcely believe his ears, and was so much taken aback that I somewhat doubted the desire to make the treaty, which he so strongly expressed on the occasion of Lord Elgin's first interview with him. . . .

For the next three days I was as busily engaged in work as I had been for the previous ten at play; but the matter had to be put through with a rush, as Lord Elgin was due at the seat of his Government. . . . I will venture to quote the description I wrote at the time of the signing of the treaty, and ask the reader to make allowance for the style of mock heroics, and attribute it to the exuberance of youth.

"It was in the dead of night, during the last five minutes of the 5th of June, and the first five minutes of the 6th of the month aforesaid, that four individuals might have been observed seated in a spacious chamber lighted by six wax candles and an Argand lamp. Their faces were expressive of deep and earnest thought, not un-

mixed suspicion. Their feelings, however, to the acute observer, manifested themselves in different ways; but this was natural as two were in the bloom of youth, one in the sear and yellow leaf, and one in the prime of middle age. This last it is whose measured tones alone break the silence of midnight, except when one or other of the younger auditors, who are both poring intently over voluminous Mss., interrupts him to interpolate an 'and' or erase a 'the.' They are, in fact, checking him as he reads, and the aged man listens, while he . . . may occasionally be observed to wink from consciousness cuteness or unconscious drowsiness. Presently the clock strikes twelve, and there is a doubt whether the date should be today or yesterday. There is a moment of solemn silence, when the reader, having finished the document, lays it down, and takes a pen which had been previously impressively dipped in the ink, by the most intelligent looking of the young men, who appears to be his secretary, and who keeps his eye warily fixed upon the other young man, who occupies the same relation to the aged listener with the scissors.

"There is something strangely mysterious and suggestive in the scratching of that midnight pen, for it may be scratching fortunes or ruin to millions. Then the venerable statesman takes up the pen to append his signature. His hand does not shake, though he is very old, and knows the abuse that is in store for him from members of Congress and an enlightened press. . . . So he gives his blessing and the treaty is signed."[32]

On June 19th the treaty was sent to the Senate for consideration,[33] and on August 2nd it easily passed the Senate by a vote of 32 to 11.[34] In the first week in August, Congress passed an act carrying into effect the terms of the treaty, and on August 5th it received the signature of the President. The act provided that—"Whenever the President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain and the provincial Parliaments of Canada, New Brunswick, Nova Scotia, and Prince Edward Island have passed laws on their part to give full effect to the provisions of the treaty between the United States and Great Britain . . . he is hereby authorized to issue his proclamation declaring that he has such evidence, and thereupon, from the date of such proclamation, the provisions of the treaty should take effect."[35] On September 23, 1854, the legislature of the Province of Canada passed a

[32] Laurence Oliphant, Episodes in a Life of Adventure (New York, 1887), pp. 36–46.

[33] Ex. Jour. (Wash., 1887), vol. ix, p. 339.

[34] Ibid., p. 376.

[35] U. S. Stat. L., 33d Cong., 1st sess., chap. 269.

law "giving effect to the treaty," and this action was followed by Prince Edward Island, October 7, 1854; New Brunswick, November 3, 1854; and Nova Scotia, December 13, 1854.[36] On May 16, 1855, after news of this favorable action on the part of the provincial legislatures was made known to the United States Government, President Pierce issued a proclamation formally putting into full effect the provisions of the treaty.[37] On July 7, 1855, the legislature of Newfoundland passed the legislation necessary to put the treaty into effect,[38] and on December 12, 1855, President Pierce issued an additional proclamation extending to Newfoundland the full benefits of the treaty.[39]

The treaty as finally drawn up and ratified seemed to remove every cause for friction between the United States and the British North American provinces.[40] The fishing interests of the United States were especially favored by the liberty to take fish within the three mile limit along the coasts of British North America, while the corresponding concession of reciprocal liberties to British subjects along the eastern sea coasts and shores of the United States was but seldom availed of by the inhabitants of British North America.[41] The American citizens had now the right to navigate the river St. Lawrence and the canals in Canada subject only to the "same tolls and other assessments as now or may hereafter be exacted of Her Majesty's subjects." Not only this, but the lumbering interest was favored by the clause providing that "no export duty or other duty shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine, watered by the river St. John and its tributaries and floated down that river

[36] British and Foreign State Papers (London, 1865), vol. xlv, pp. 878–884.
[37] Ibid., pp. 884–885.
[38] Ibid., pp. 883–884.
[39] U. S. Stat. L., vol. xi, pp. 790–791.
[40] North American Review, vol. lxxiv, pp. 176–191.
[41] Joseph Howe, The Reciprocity Treaty (Hamilton, 1865), p. 10.

to the sea, when the same is shipped to the U. S. from the Province of New Brunswick." [42]

Besides the somewhat doubtful concession to British subjects to fish along the eastern sea coasts of the United States north of the 36th parallel of north latitude, the further liberty of the free navigation of Lake Michigan was extended, and a free market for certain of the provincial products was offered. This last concession was really the only valuable one granted to the inhabitants of British North America, and it was to balance this that the British Government acceded to the American desires for greater fishing liberties, for the navigation of the St. Lawrence river and the Canadian canals, and for free lumber on the St. John river. Economically, it appeared as though the United States and the Provinces were complementary, the one producing the raw products, the other the manufactured articles. It is true that no mention of manufactured goods was made in the treaty of reciprocity, but at that time the Canadian tariff was moderate, and it had been strongly intimated by the British minister at Washington, on June 24, 1851, that although it would be difficult to provide expressly for a reciprocity in manufactured goods, yet American manufacturers need have no fear for the Canadian Government would always hold to a "most liberal commercial policy." [43] It was hardly anticipated by even the bitterest opponents of the treaty that in the short space of five years a strong spirit of protectionism should arise in Canada, which inevitably led to the discriminatory tariffs of 1858 and 1859,[44] and eventually to the abrogation of the treaty itself.

[42] Rept. of Comm., 32d Cong., 2d sess., 1852–1853, H. Rept. No. 4, pp. 20–21.

[43] 32d Cong., 1st sess., S. Ex. Doc. No. 1, p. 89.

[44] Edward Porritt, Sixty Years of Protection in Canada, 1846–1907, pp. 125–145.

APPENDIX A

Projet of Treaty

The Government of the United States being equally desirous with Her Majesty the Queen of Great Britain to avoid further misunderstanding between their respective citizens and subjects in regard to the extent of the right of fishing on the coasts of British North America, secured to each by the first article of a convention between the United States and Her Britannic Majesty's government, signed at London on the 20th of October, 1818; and being also desirous to regulate the commerce and navigation between their respective territories and people, and more especially between Her Majesty's possessions in North America and the United States, in such manner as to render the same reciprocally beneficial and satisfactory, have respectively named plenipotentiaries, &c., &c., who have agreed upon the following articles:

Article I

It is agreed by the high contracting parties that, in addition to the liberty secured to American fishermen by the above-named convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Newfoundland, Prince Edward Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the coast and shores of those colonies and the islands thereof, and also upon the Magdalen Islands, for the purpose of dry-

ing their nets and curing their fish; provided that in so doing they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of said coast in their occupancy for the same purpose.

It is understood that the above-mentioned liberty shall not extend to the right of fishing in the estuaries and rivers hereinafter designated; that is to say,
which right is reserved exclusively for British fishermen.

Article II

It is agreed by the high contracting parties that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind, except shellfish, on the sea-coasts and shores of the United States, (except the coasts of the State of Florida and the adjacent islands,) and on the shores of the several islands belonging thereto, and in the bays, harbors, and creeks of the United States and of the said islands, without being restricted to any distance from the shore; with permission to land upon the coasts of the United States and of the islands aforesaid, (except the coast of Florida and the adjacent islands), for the purpose of drying their nets and curing their fish; provided that in so doing they do not interfere with the rights of private property, or with the fishermen of the United States in the use of any part of the said coasts, in their occupation for the same purpose.

It is understood that the above-mentioned liberty shall not extend to the right of fishing in the rivers and estuaries of the United States hereinafter designated; that is to say,
which right is reserved exclusively for American fishermen.

Article III

It is agreed that the reciprocal rights and privileges granted to the citizens and subjects of the high contracting parties in the two foregoing articles (first and second) shall,

to the full extent therein conceded, be enjoyed by them, respectively, to take, dry, and cure fish of any kind, except shell-fish, on the sea-coasts and shores; on the continental territories and possessions of either party; on the coasts of the Pacific Ocean, and in the bays, harbors, and creeks of the said territories and possessions; and on the coasts and shores of the adjacent islands belonging to either party, without being restricted to any distance from the shores.

Article IV

It is agreed that the articles enumerated in the schedule hereunto annexed, being the growth and produce of the aforesaid British Colonies or of the United States, shall be admitted into each country, respectively, free of duty.

Schedule

Grain, flour, and breadstuffs of all kinds.
Animals of all kinds.
Fresh, smoked, and salted meats.
Cotton-wool, seeds, vegetables.
Undried fruits, dried fruits.
Fish of all kinds.
Poultry.
Hides, furs, skins, or tails, undressed.
Stone and marble in its crude or unwrought state.
Butter, cheese, tallow.
Lard, horns, manures.
Ores of metals of all kinds.
Pitch, tar, turpentine, ashes.
Timber and lumber of all kinds: round, hewed, and sawed; manufactured in whole or in part.
Firewood.
Plants, shrubs, and trees.
Pelts, wool.
Fish-oil.
Rice, broom-corn, bark.
Gypsum, ground or unground.
Hewn or wrought burr-stones.
Dye-stuffs.
Flax, hemp, and tow, unmanufactured.

Article V

It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the river Saint Lawrence and the canals in Canada, used as the means of communicating with the great lakes and the Atlantic Ocean, with their vessels, boats, and crafts as fully and freely as the subjects of Her Britannic Majesty, subject only to the same tolls and other assessments as now are or may hereafter be exacted of Her Majesty's said subjects; it being understood, however, that the British government retains the right of suspending this privilege, on giving due notice thereof to the Government of the United States.

It is further agreed that if at any time the British government should exercise the said reserved right the Government of the United States shall have the right of suspending, if it think fit, the operations of Article IV, of the present treaty, for so long as the suspension of the free navigation of the Saint Lawrence or the canals may continue.

It is also agreed that the citizens and inhabitants of the United States shall have the right to the free navigation of the river Saint John, in the province of New Brunswick, as fully and freely as the subjects of Her Britannic Majesty, and that no export duty or any other duty shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine, and watered by the river Saint John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick.

Article VI

The present treaty shall take effect whenever the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and the British provincial assemblies on the one hand, and by the Congress of the United States on the other; and shall be binding only

so long as said laws, whether now existing or hereinafter to be enacted, shall remain in force; and whenever the Imperial Parliament or the provincial assemblies on the one hand, and the Congress of the United States on the other, shall repeal said laws, or either of them, this treaty shall cease to be binding on the other party. Either party may, however, after the expiration of seven years, terminate the said treaty, by giving to the other one year's notice of its intention to have the same terminated and become inoperative.

APPENDIX B

Reciprocity Treaty Between the United States and Great Britain

Her Majesty, the Queen of Great Britain, being equally desirous with the Government of the United States to avoid further misunderstanding between their respective Subjects and Citizens, in regard to the extent of the right of Fishing on the Coasts of British North America, secured to each by Article I, of a Convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, and being also desirous to regulate the Commerce and Navigation between their respective Territories and People, and more especially between Her Majesty's Possessions in North America and the United States in such manner as to render the same reciprocally beneficial and satisfactory, have respectively named Plenipotentiaries to confer and agree thereupon, that is to say: Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, James, Earl of Elgin and Kincardine, Lord Bruce, and Elgin, a Peer of the United Kingdom, Knight of the Most Ancient and Most Noble Order of the Thistle, and Governor General in and over all Her Britannic Majesty's Provinces on the Continent of North America, and in and over the Island of Prince Edward; and the President of the United States of America, William L. Marcy, Secretary of State of the United States, who, after having communicated to each other their respective full Powers, found in good and due form, have agreed upon the following Articles:

Article I

It is agreed by the High Contracting Parties, that in addition to the liberty secured to the United States fishermen

by the above-mentioned Convention of October 20, 1818, of taking, curing, and drying fish on certain Coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish on the sea coasts and shores, and in the bays, harbors, and creeks of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and of the several Islands thereunto adjacent, without being restricted to any distance from the shore; with permission to land upon the coasts and shores of those Colonies and the Islands thereof, and also upon the Magdalen Island for the purpose of drying their nets and curing their fish; provided that in so doing, they do not interfere with the rights of private property or British fishermen in the peaceable use of any part of the said coast in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all fisheries in rivers, and the mouths of rivers, are hereby reserved exclusively for British fishermen.

And it is further agreed, that in order to prevent or settle any disputes as to the places to which the reservation of exclusive right to British fishermen contained in this Article, and that of fishermen of the United States contained in the next succeeding Article, apply, each of the High Contracting Parties, on the application of either to the other, shall, within six months thereafter, appoint a Commissioner. The said Commissioners before proceeding to any business, shall make and subscribe a solemn declaration that they will impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favor or affection to their own country, upon all such places as are intended to be reserved and excluded from the common liberty of fishing under this and the next succeeding Article; and such declaration shall be entered on the record of their proceedings. The Commissioners shall name some

third person to act as an Arbitrator or Umpire in any case or cases, on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person, and it shall be determined by lot which of the two persons so named shall be the Arbitrator or Umpire in cases of difference or disagreement between the Commissioners. The person so to be chosen to be Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of either of the Commissioners or of the Arbitrator or Umpire, or of their or his omitting, declining or ceasing to act as such Commissioner, Arbitrator or Umpire, another and different person shall be appointed or named as aforesaid, and shall make and subscribe such declaration as aforesaid.

Such Commissioners shall proceed to examine the Coasts of the North American Provinces and of the United States embraced within the provisions of the first and second Articles of this treaty, and shall designate the places reserved by the said Articles from the common rights of fishing therein.

The decision of the Commissioners and of the Arbitrator or Umpire shall be given in writing in each case, and shall be signed by them respectively.

The High Contracting Parties hereby solemnly engage to consider the decision of the Commissioners conjointly, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive in each case decided upon by them or him, respectively.

Article II

It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the

United States, the liberty to take fish of every kind, except shell-fish, on the Eastern sea coasts and shores of the United States, North of the 36th parallel of North Latitude, and on the shores of the several Islands thereunto adjacent, and in the bays, harbors, and creeks of the said sea coasts and shores of the United States and of the said Islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the Islands aforesaid for the purpose of drying their nets and curing their fish; provided that in so doing they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all fisheries in rivers and mouths of rivers are hereby reserved exclusively for fishermen of the United States.

Article III

It is agreed, that the Articles enumerated in the Schedule hereunto annexed, being the growth and produce of the aforesaid British Colonies or of the United States, shall be admitted into each Country respectively free of duty:

Schedule

Grain, flour, and breadstuffs of all kinds.
Animals of all kinds.
Fresh, smoked, and salted meats.
Cotton-wool, seeds and vegetables.
Undried fruits, dried fruits.
Fish of all kinds.
Products of fish and of all other creatures living in the water.
Poultry, eggs.
Hides, furs, skins or tails, undressed.
Stone and marble in its crude or unwrought state.
Slate.
Butter, cheese, tallow.

Lard, horns, manures.
Ores of metals of all kinds.
Coal.
Pitch, tar, turpentine, ashes.
Timber and lumber of all kinds: round, hewed, and sawed; unmanufactured in whole or in part.
Firewood.
Plants, shrubs, and trees.
Pelts, wool.
Fish-oil.
Rice, broom-corn, bark.
Gypsum, ground or unground.
Hewn or wrought or unwrought burr or grindstones.
Dye-stuffs.
Unmanufactured tobacco.
Rags.

Article IV

It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the river St. Lawrence and the canals in Canada, used as the means of communicating between the Great Lakes and the Atlantic Ocean, with their vessels, boats and crafts, as fully and freely as the subjects of Her Britannic Majesty, subject only to the same tolls and other assessments as now are or may hereafter be exacted of Her Majesty's said subjects, it being understood, however, that the British Government retains the right of suspending this privilege on giving due notice thereof to the Government of the United States.

It is further agreed that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the operation of Article III, of the present treaty in so far as the Province of Canada is affected thereby, for so long as the suspension of the free navigation of the river St. Lawrence or the Canals may continue.

It is further agreed that British subjects shall have the right freely to navigate Lake Michigan with their vessels,

boats and crafts, so long as the privilege of navigating the river St. Lawrence secured to American citizens by the above clause of the present Article shall continue, and the Government of the United States further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty, the use of the several State Canals on terms of equality with the inhabitants of the United States.

And it is further agreed that no Export duty or other duty shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine, watered by the river St. John and its tributaries and floated down that river to the sea, when the same is shipped to the United States from the Province of New Brunswick.

Article V

The present treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and by the Provincial Parliaments of those of the British North American Colonies which are affected by this treaty on the one hand, and by the Congress of the United States on the other. Such assent having been given, the treaty shall remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards.

It is clearly understood, however, that this stipulation is not intended to affect the reservation made by Article IV, of the present treaty with regard to the right of temporarily suspending the operation of Articles III and IV thereof.

Article VI

And it is hereby further agreed that the provisions and stipulations of the foregoing Articles shall extend to the Island of Newfoundland, so far as they are applicable to that Colony. But if the Imperial Parliament of Newfoundland, or the Congress of the United States shall not embrace in their laws enacted for carrying this treaty into effect, the Colony of Newfoundland, then this Article shall be of no effect, but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair the remaining Articles of this treaty.

Article VII

The present treaty shall be duly ratified and the mutual exchange of ratification shall take place in Washington within six months from the date thereof, or earlier if possible.

In faith whereof, We, the respective Plenipotentiaries have signed this treaty and have hereunto affixed our Seals.

Done in triplicate, at Washington, the Fifth day of June, Anno Domini, one thousand eight hundred and fifty-four.

(Signed) ELGIN AND KINCARDINE,
L. S.

W. L. MARCY,
L. S.

Certified Copy,
L. OLIPHANT, Private Secretary.

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VITA

Charles C. Tansill was born at Fredericksburg, Texas, December 9, 1890. He received his preliminary education in the public school of Brookland, D. C., and was prepared for college at the Emerson Institute of Washington, D. C. In 1908 he was matriculated in the Catholic University of America, and received the degree of A.B. in 1912. He received from the same University the degree of Doctor of Philosophy in 1915.

During the session of 1915–1916 he was in charge of the undergraduate department of American History in the Catholic University. In October, 1916, he entered the Johns Hopkins University as a graduate student in the Department of History, taking Political Science as his first subordinate and English Literature as his second subordinate. He received the degree of Doctor of Philosophy in June, 1918.

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